Vol. II

TRANSCRIPT OF RECORD

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Supreme Court of the United States

OCTOBER TERM, 1946

No. 467

AYRSHIRE COLLIERIES CORPORATION, ET AL., AND CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF INDIANA

FILED SEPTEMBER 6, 1946.

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By Mr. Stadell:

Q. In other words, while you would request the Commission to do that—what you are requesting the Commission to do is to give your mines in Boonville a 10 cent lower rate?

A. As they did in I. & S. 4368.

Q. Then they would permit the Illinois Central to maintain from their mines in the Southern Illinois Group to Rockford, so you could force your coal from your Boonville mines into Rockford, in place of permitting the Illinois Central to haul its Southern Illinois coal from mines on its own line to such point?

A. I don't know anything about that.

Q. You stated that the difference in distance, in answer to a question by Mr. Cardy, that the difference in distance between some mines in the Southern Illinois Group was 100 miles more. Give me the names of those mines where you claim that?

A. Shall I go through this exhibit and give them to you?

Q. I thought you knew.

A. I got them from the exhibit.

Q. But you don't know what they are now?

A. I can tell you. I looked the exhibit over. If you wish to know, I can dig them out for you again.

[fol. 1367] Q. Don't take the time to check it now. We will check it during recess, if you will.

A. I thought there was no use waiting for me to check them. Here is Southern Illinois to Belvidere, page 4 of the exhibit, which is Section 5, shows that you have a route Missouri Pacific, Mt. Vernon, Illinois, C&EI, Chicago, Illinois, C&NW, 364.8 miles, and that via the New York Central, in the Southern Illinois Group, New York Central, Peoria, Illinois, and C&NW, 525 miles.

Q. What you are talking about is not the distance between the mines, but the distance over some of these circuitous tariff routes?

A. That is right.

Q. Now, do you know of any reason, if the rate of $2.12 from the Princeton Group to Rockford for 360 miles is a just and reasonable rate, why that same rate wouldn't be also a just and reasonable rate for the same or a shorter

distance from the Southern Illinois Group, from a transportation standpoint I am talking about?

A. No.

Q. And you would give the same answer with respect to the comparative rates from the Boonville Group, on the one hand, or the Southern Illinois or other similarly situated groups in Illinois, on the other?

A. From a strict distance standpoint, no, sir.

[fol. 1368] Q. Transportation standpoint, not distance.

Mr. Dixon: Mr. Stadell, I didn't put him on as a transportation expert.

Mr. Stadell: Well, he answered some questions of Mr. Cardy on that basis.

Exam. Trezise: Do you have a number more questions, Mr. Stadell?

Mr. Stadell: A few more. Do you want to take a recess?

Exam. Trezise: Well, I think under the circumstances, gentlemen, we will adjourn until two o'clock.

(Witness excused.)

(At 12:00 o'clock noon, recess taken to 2:00 o'clock P. M.)

Afternoon Session

The hearing was resumed pursuant to recess.

2:00 o'clock P. M.

Exam. Trezise: All right, gentlemen, when you are ready, we will begin.

Carl W. Dilli resumed:

Cross-examination (Continued):

Mr. Stadell: I have no further questions.

Exam. Trezise: Do we have any further cross examination?

Mr. Cardy: Just one question, Mr. Examiner.

By Mr. Cardy:

Q. Mr. Dilli, as I understand it, the real difficulty and reason you didn't publish these rates is the fact that the [fol. 1369] Illinois Central and the Milwaukee Railroad from the Linton-Sullivan District and the Brazil-Clinton District have lower rates than other railroads serving those groups, is that true?

Mr. Biaett: You are speaking of Beloit, now?

Mr. Cardy: To Beloit and to the other points—to Beloit, first.

The Witness: The other lines to Beloit have no lower rate from the Brazil-Clinton or Linton-Sullivan Group, but to the affected territory they do have lower rates.

By Mr. Cardy:

Q. In other words, the Milwaukee and the Illinois Central have lower rates than the roads serving those two districts, and to base the rates from Boonville and Princeton on the higher rated roads, that brings about the disturbance in the differentials?

Mr. Bather: Now, that is not his testimony at all, Mr. Cardy.

By Mr. Cardy:

Q. Well, isn't that the fact? In other words, if the differentials were constructed on the basis of the Milwaukee and Illinois Central rates, going differentials, it would be all right, isn't that true?

A. What we are trying to avoid is a difference in the rates over the Illinois or the Milwaukee from the mine groups. What we would like to have is the same rates from all the mines in those groups.

[fol. 1370] Q. Well, that is the point.

A. Yes.

Mr. Cardy: That is all.

By Exam. Trezise:

Q. Well, Mr. Dilli, in your Exhibit 17 you did not set forth the distances. Is it your thought in constructing that exhibit that if distances made any difference in the rates that you would rely upon Mr. Robertson's exhibits for the distances?

A. Well, in considering exhibits and the testimony we were relying on differentials and not distances, and we knew in advance that Mr. Robertson would file an exhibit of the distances. So we didn't think it necessary to again compile the distances.

Q. I was just trying to make the point whether you regarded the distances of so little relative importance that

you didn't put them in. But you say now that you rely upon the distances, if they have any importance in your mind you rely upon the distances shown in Mr. Robertson's exhibits to guide the Commission in its determination?

A. Yes.

Exam. Trezise: Thank you. Any further questions?

Mr. Dixon: I have one question on redirect.

Exam. Trezise: Oh. Go ahead, Mr. Dixon.

Redirect examination.

By Mr. Dixon:

Q. Mr. Dilli, this morning Mr. Stadell asked you a ques- [fols. 1371-1380] tion which left the impression that coal moving off the Southern Railway westward to such junctions as Browns, Fairfield and Mr. Vernon went through the Southern Illinois Group. Is it not a fact that page 1 of your exhibit 17 shows that that is not correct?

A. Oh, yes. It shows very clearly that Southern Illinois is south of the main line of the Southern Railway extending from Louisville to St. Louis and the Southern Railway not serving the Southern Illinois Group, obviously, we wouldn't handle traffic through that group.

Mr. Dixon: That is all.

Exam. Trezise: All right, Mr. Dilli.

Mr. McElroy: Mr. Dilli, was your railroad a party to the Section 13 petition filed by the Interstate Commerce Commission alleging that the Illinois Intrastate rates, were unduly low, do you remember?

The Witness: Do you know, Mr. Dixon?

Mr. Dixon: It was.

Exam. Trezise: You are excused, Mr. Dilli.

(Witness excused.)

. . . . . .

[fol. 1381] Harry A. Rozene was sworn and testified as follows:

Direct examination.

Mr. Stadell: I might make this statement now. After the prehearing conference Mr. Rozene computed the average

distances over the shortest tariff routes in accordance with the agreement reached during that conference, that is, from all of the Illinois groups except the Belleville, Illinois, group, and that exhibit was distributed to the parties before the last hearing. After that he found a number of errors in that exhibit and he concluded that those should be corrected and that the exhibit should also be reworked to include the average shortest route tariff distances from the Belleville group—and did you have the Indiana groups in the other exhibit?

The Witness: Yes.

Mr. Stadell: To include the average shortest tariff distances in the Belleville group, and he has reworked that exhibit and it is in the set that he has distributed, and that is the exhibit that we are offering for the record, and not the one that was distributed before the first hearing in these proceedings.

Exam. Trezise: Then we may disregard the one that was distributed before?

Mr. Stadell: That is correct. It is the same, except the one we have now includes the average shortest tariff route [fol. 1382] distances from the Belleville group as well as all the other Illinois, Indiana and Western Kentucky groups, and it eliminates the errors in the previous exhibit.

Mr. McElroy: And that previous exhibit does not bear a number, is that correct?

Exam. Trezise: Yes, the one that was distributed did not bear a number.

Mr. Stadell: Now, each of these exhibits in the set *are* identified by a numeral in the lower lefthand corner on the first page.

Exam. Trezise: You can identify them off the record?

Mr. Stadell: Yes.

Exam. Trezise: All right, off the record.

(Discussion outside the record.)

(Exhibits Nos. 20 to 37, both inclusive, marked for identification.)

By Mr. Stadell:

Q. Will you please state your name, occupation and business address.

A. My name is Harry A. Rozene. I am employed as Assistant Traffic Manager of the Illinois Coal Traffic Bureau,

and my business address is 307 North Michigan Avenue, Chicago, Illinois.

Q. What is the Illinois Coal traffic Bureau and what are its functions?

A. The Illinois Coal Traffic Bureau is a voluntary unincorporated association of the coal producing companies [fol. 1383] which own and operate mines in the Southern Illinois, Centralia, DuQuoin, and Danville coal rate groups in the state of Illinois. It was organized and is maintained to protect the interests of its members in all transportation matters, particularly those involving changes in the freight rates and charges on coal from their mines or from the mines of their competitors. The coal mining companies which are members of such Bureau produce and ship more than 95 per cent of the total commercial coal tonnage that is produced in the Southern Illinois group, 80 per cent of the total commercial coal tonnage that is produced in the Danville, Illinois, group, and 100 per cent of the total commercial coal tonnage that is produced in the DuQuoin and Centralia groups by rail served mines.

Q. Do you represent or is your testimony offered on behalf of any other party in these proceedings, and if so, will you please state the name of such party?

A. Yes. My testimony in these proceedings is also offered on behalf of the Central Illinois District Coal Traffic Bureau.

Q. Will you please explain the nature and functions of that organization?

A. It is a voluntary unincorporated association of the coal producing companies which own and operate coal mines in the Central Illinois, or what is more commonly referred to as the Springfield, Illinois, group. The functions which it was organized to perform for its members are the [fol. 1384] same as those which the Illinois Coal Traffic Bureau performs for its members. I have already described those functions.

Q. Will you please briefly outline your experience in transportation work?

A. My experience in transportation matters extends over a period of approximately 27 years. From 1913 to 1923 I was employed by the Illinois Central Railroad in various departments, including the operating and general freight traffic departments, and the office of the auditor of freight accounts. From 1923 until the present time, a period of 20

years, I have been employed by the Illinois Coal Traffic Bureau. During the periods referred to, I have participated in numerous cases before the Interstate Commerce Commission, the Illinois Commerce Commission, and other regulatory agencies in which the rates and charges on bituminous coal and various other commodities were involved. I am familiar, generally, with the rate adjustments applicable on bituminous coal from the mines in Illinois, Indiana, and Western Kentucky to the territories to which such coal normally moves, and also with the rate adjustments applicable on coal from the numerous mines, origin points, docks and rate groups in other parts of the United States, from which coal is shipped to the markets in which Illinois coal is sold.

Q. Have you prepared a series of exhibits for presentation in these proceedings?

A. Yes, I have.

[fol. 1385] Q. Were those exhibits prepared by you or under your personal supervision and direction?

A. The majority was prepared personally by me. The remainder was prepared in accordance with my instructions and under my personal supervision.

Q. Are those exhibits true and correct to the best of your knowledge and belief?

A. They are.

Q. Those exhibits have been marked, have they not, for identification in the record, in the order in which they will be presented?

A. Yes, sir, they have.

Q. Have you prepared an exhibit showing the extent and location of the Southern Illinois, Centralia, DuQuoin, Danville, and other coal producing groups in Illinois, Indiana, and Western Kentucky?

A. Yes, my Exhibit No. 20 is a map on which is shown the boundaries and geographical location of each of the coal producing groups in Illinois, Indiana, and Western Kentucky, as such groups are constituted for rate making purposes. The name of each group is identified by means of a numeral which is explained in the lower lefthand corner of the exhibit. For example, the Northern Illinois group is identified by the numeral "1" which appears within the boundary of such group. The Fulton County group is identified by the numeral "2", the Peoria group by the [fol. 1386] numeral "3", the Springfield group by the

numeral "4", the Southern Illinois group by the numeral "8", and the Brazil-Clinton, Indiana, group by the numeral "10", and so forth, and such numerals appear opposite the names of the respective groups in the lower lefthand corner of this exhibit.

The geographical location of certain individual mines in Illinois which are not generally included in any of the Illinois groups for rate making purposes to the destinations involved in these proceedings, such as the mine at Atkinson, Alpha, Victoria, Augusta, and Rushville, Illinois, is also shown by means of a square drawn around the name of the origin point at or near which each of such mines are located.

Q. What do the solid black dots and dots colored in red, which appear in the upper portion of this map, represent?

A. The solid black dots show the geographical location of the twelve destinations in Northern Illinois which were selected and used by the respondent and petitioning railroads in their rate and mileage exhibits in these proceedings as representative of the numerous destinations in Northern Illinois to which they have proposed increased rates which are here under suspension. The red colored dots show the geographical location of the fourteen destinations in Northern Illinois, Eastern Iowa, and Southern Wisconsin which such railroads have used in their exhibits in these proceedings for comparative purposes; that is, they have used the [fol. 1387] present rates and average mileages from the various groups in Illinois, Indiana and Western Kentucky to such destinations in an effort to justify the increased rates which they have proposed and are seeking in these proceedings to make effective from such groups to numerous destinations in Northern Illinois.

The twelve destinations in Northern Illinois, the location of which is indicated by the twelve solid black dots on my Exhibit No. 20, have been referred to throughout these proceedings as the representative suspended points, while the fourteen destinations in Northern Illinois, Eastern Iowa, and Southern Wisconsin, which are identified by means of the red dots on such exhibit, have been referred to as the representative comparative points. I will refer to them in the same way throughout my testimony.

(Exhibit No. 20, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Are the twelve representative suspended Northern Illinois points, which are identified on your Exhibit No. 20, and which you say were used by the railroads in their rate and mileage exhibits, the only points in Northern Illinois to which increases are proposed in the present rates from the Southern Illinois and other Illinois groups in these proceedings?

A. No. Increases are proposed to numerous additional [fol. 1388] destinations in Northern Illinois from the Southern Illinois and other Illinois groups. I have not made a complete analysis of the changes which are proposed in the present rates from all of the Illinois groups to points in Northern Illinois in these proceedings. However, I have prepared an exhibit showing the names of the Northern Illinois points to which changes are proposed in the present rates from the Southern Illinois group. This exhibit, which has been marked No. 21, shows the name of each destination in Northern Illinois to which changes are proposed in the present rates on coal from the Southern Illinois group, the name of the railroad serving such destination, the present and suspended rates from the Southern Illinois group to each of such destinations, and the name of the origin railroad via which the present and suspended rates shown apply. From this exhibit it will be found that increases are proposed in the present rates from the Southern Illinois group to 92 points in Northern Illinois.

(Exhibit No. 21, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Have you prepared an exhibit showing the names of the railroads which serve the mines in the various coal producing groups in Illinois, Indiana, and Western Kentucky, the representative comparative points, and the destinations in Northern Illinois to which the proposed increased rates are under suspension in these proceedings?

[fol. 1389] A. Yes. This information, as well as certain additional information, is shown on my Exhibit No. 22. In this exhibit I have shown the name of each of the railroads that serves the mines in each of the coal producing groups in Illinois, Indiana and Western Kentucky, and the names of the railroads which serve the individual mines, such as those at Atkinson and Alpha, Illinois, and so forth, which,

as I previously stated, are not included in any of such coal producing groups with respect to the rates to many of the Northern Illinois destinations involved.

I have also shown on such exhibit the name of each of the railroads that serves the fourteen representative points and the numerous destinations in Northern Illinois to which increases are proposed in the present rates from the Illinois, Indiana, and Western Kentucky mines by the rates under suspension in these proceedings. In addition, this exhibit shows the names of the railroads which participate as intermediate carriers in the rates and routes from the Illinois producing groups to the suspended and comparative points.

(Exhibit No. 22, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Now, Mr. Rozene, what is the position of the Illinois Coal Traffic Bureau and the Central Illinois District Coal Traffic Bureau in these proceedings?

A. They are opposed to the approval or establishment of [fol. 1390] any of the proposed increased rates which are under suspension in these proceedings from the Illinois groups in which their members have mines, to the destinations involved in Northern Illinois. They are also opposed to the issuance of any 13th Section order, such as is requested by the railroads in these proceedings, which would require increases in the present intrastate rates from their member companies' mines to the Northern Illinois destinations involved.

Q. Will you please state the principal reasons for the position of these two parties?

A. In order that the reasons for the position assumed by us in these proceedings may be readily apparent, I desire to first briefly review the historical background of the present rates from the Illinois and Indiana mines to the destination territory involved and make a brief reference to previous decisions of the Illinois and Interstate Commerce Commissions in which such rates have been involved.

In Illinois Commerce Commission Docket No. 13558, Chamber of Commerce of Rockford vs. Baltimore & Ohio Railroad Company, et al, decided March 7, 1928, and Illinois Commerce Commission Docket No. 13569, Rockford Manufacturers and Shippers Association vs. Baltimore & Ohio

Railroad Company, et al, decided March 7, 1928, the Illinois Commerce Commission, upon complaint of the receivers and consumers of coal at Rockford, Freeport, and certain other Northern Illinois points, found that the rates then in effect [fol. 1391] on coal from Danville, Fulton County, Peoria, Springfield, Centralia, Belleville, Duquoin, and Southern Illinois groups to such points were unreasonable and it required such rates to be reduced 17 cents per ton for the purpose of placing them on a proper basis.

The prescribed reduced rates became effective August 20, 1930. Shortly thereafter, the railroads filed a petition with the Interstate Commerce Commission alleging that such reduced Illinois intrastate rates among others, discriminated against interstate commerce in coal from Indiana and Western Kentucky, and to interstate destinations beyond, and resulted in a revenue discrimination against interstate commerce, in violation of Section 13 of the Interstate Commerce Act. They requested the Commission to institute a 13th Section investigation with respect to such rates, and following such investigation to issue an order requiring them to be increased back to their former level.

Pursuant to the prayer of such petition, the Commission instituted a 13th Section investigation, and after an exhaustive investigation in such proceedings, Docket No. 23130, Intrastate Rates on Bituminous Coal Within Illinois, 182 ICC 537, it dismissed such petition because it found that the interstate rates voluntarily maintained by such railroads from the Indiana mines to the Northern Illinois points involved were below the level of the reduced intrastate rates which had been prescribed by the Illinois [fol. 1392] Commission from the Illinois mines to such destinations; that the transportation conditions from the Indiana mines, on the one hand, and the Illinois mines, on the other, to such destinations were substantially similar; that the principal competition met by the Illinois mines at such points was with the Indiana mines; and that in view of such findings it could not and would not require any increase in the intrastate rates from the Illinois mines to such Northern Illinois points, unless and until the lower level of rates from the Indiana mines to such points and to points in the surrounding territory was increased to a level more nearly commensurate with the level of the rates from the Illinois mines.

From what I have stated, it will be observed that the Commission in its decision in such case set up a positive condition which the railroads were required to meet and comply with before they could make any increases in the present intrastate rates on coal from the Illinois mines to the points in Northern Illinois involved in these proceedings, or before the Illinois or Interstate Commerce Commissions would or could approve any increases in such rates. However, the railroads have wholly failed to comply with this condition since the decision in such case. On the contrary, since such decision was rendered, the Chicago, Milwaukee, St. Paul and Pacific Railroad has reduced the rates on coal to Rockford and Freeport and certain intermediate points from all of the mines served by it in the [fol. 1393] Brazil-Clinton, Indiana, group, 17 cents per ton, and from all of the mines served by it in the Linton-Sullivan, Indiana, group, 12 cents per ton.

When such reduced rates were published they were suspended by the Interstate Commerce Commission in I&S Docket No. 3843, Coal from Indiana to Illinois, 197 ICC 245; 200 ICC 609, and were found to be unlawful and the Commission ordered them cancelled. The Commission's decision in such case, however, was set aside by the United States Supreme Court, on the ground that it was not supported by necessary findings, and the reduced rates from such Indiana mines to such Northern Illinois points became effective April 23, 1934, and have been in effect since that time.

As revealed by Witness Kuhls' testimony in these proceedings, Transcript 774, the great preponderance of the coal tonnage from the Brazil-Clinton and Linton-Sullivan, Indiana, groups originates at mines in such groups served by the Chicago, Milwaukee, St. Paul and Pacific Railroad.

Therefore, except for the Ex Parte No. 115 increase of 10 cents per ton, which was made in all of the rates on coal in this territory, the present rates to Rockford, Freeport, and the other intermediate Illinois points referred to from the mines served by the Milwaukee in the Brazil-Clinton, Indiana, group are 17 cents per ton lower, and the present rates from all mines in the Linton-Sullivan, [fol. 1394] Indiana, group served by the Milwaukee to such points are 12 cents per ton lower than the rates which were in effect from such mines to such points at the time of the hearing in Docket No. 23130.

The substantially higher basis of rates which were in effect from the Indiana mines at the time of the hearing in Docket 23130 was the one described by the Commission in its report in that case as being well below the level of the rates in effect from the Illinois mines and well below the level of the rates generally in effect on coal in this territory.

As the petitioning and respondent railroads have not only failed to comply with the positive condition laid down by the Commission in its decision in Docket No. 23130, with respect to increasing the rates from the Indiana mines, but on the contrary have further substantially reduced the level of such rates to the Northern Illinois points involved, it is our position that there is no justification, either in fact or in law, for the substantial increases which they are seeking authority in these proceedings to make effective in the present rates from the Illinois mines to such points, and that the Illinois and Interstate Commerce Commissions should find such proposed increases unjustified and unlawful, and the latter Commission should dismiss the pending 13th Section petition and discontinue these proceedings.

The failure of the railroads to comply with the condition laid down by the Commission in its decision in Docket No. [fol. 1395] 23130 with respect to increasing lower level of rates from the Indiana mines; the further substantial reductions which they have made in such rates to the Northern Illinois points involved since the Commission's decision in such case, and the voluntary maintenance by them of the present substantially lower level of rates from the Indiana mines to such points than from the Illinois mines constitutes the first principal reason for our opposition to the suspended increased rates from the Illinois mines and to the pending 13th Section petition.

It is our position that the issues presented with respect to the lawfulness of the present intrastate rates from the Illinois mines to the Northern Illinois points involved and with respect to the question of whether they violate the 13th Section of the Interstate Commerce Act, have already been thoroughly reviewed and decided against the respondent and petitioning railroads in Docket No. 23130, under conditions and facts more favorable to the railroads' side of the case than are the conditions and facts which are present in the present proceedings, that is, in Docket 23130, the rates from the principal mines in the Brazil-Clinton, Indi-

ana, group were 17 cents per ton higher and the rates from the principal mines in the Linton-Sullivan, Indiana, group were 12 cents per ton higher than they are at the present time.

From what I have stated, it is apparent that the only change in conditions which has occurred since the Com- [fol. 1396] mission's decision in Docket No. 23130, dismissing the railroads' 13th Section petition and refusing to approve or require increases in the intrastate rates from the Illinois mines to the Northern Illinois points involved, has been the further substantial reductions of 17 cents per ton in the rates from the Brazil-Clinton, Indiana, mines and 12 cents per ton in the rates from the principal mines in the Linton-Sullivan, Indiana, group to such points. It is therefore our position that the Interstate Commerce Commission's decision in these proceedings, with respect to the pending 13th Section petition, can properly be no different than it was in Docket No. 23130.

The only yardsticks or standards of comparison used by the railroads in these proceedings in their attempted justification of the proposed increased rates, which are under suspension, from the Illinois mines to the Northern Illinois points involved, are the present interstate rates from such mines to the comparative points which are located beyond in Northern Illinois, Eastern Iowa, and Southern Wisconsin, and the Holmes and Hallowell scale.

Mr. Zoll: Right there, are you sure that that is correct? I just want to call attention to the fact that one exhibit, No. 12, introduced by Mr. Kuhls, has other yardsticks in it. I just question the correctness of that statement. You might as well go ahead, but I just wanted the record to show that I doubt whether that is correct.

[fol. 1397] The Witness: The use of the interstate rates from the Illinois mines to the comparative points in Southern Wisconsin, which I will later show are unreasonably high and on an improper basis, by virtue of the order of the Interstate Commerce Commission in Lake Dock Coal Cases, 89 ICC 170, which we contend it never had any authority to enter in the first instance and which has since been vacated and set aside, and the use of the Holmes and Hallowell scale as a yardstick for measuring the proposed Illinois intrastate rates, is improper, because if the interstate rates from the Illinois mines to the comparative points in Wiscon-

sin were reduced to a proper basis they could not be used to justify any increases in the present intrastate rates from such mines to points in Northern Illinois.

Another reason why we are opposed to the approval or establishment of the proposed increased intrastate rates which are under suspension in these proceedings from the mines of our member companies to the Northern Illinois points involved and to the issuance of any 13th Section order requiring such rates to be increased, is that the railroads have in numerous instances established and used grossly circuitous routes in connection with such rates for their own convenience and the distances over such circuitous routes makes such rates appear much lower than they actually are if reasonable and practicable tariff routes were established and used in connection with such rates.

[fol. 1898] There are other important reasons why the Illinois and Interstate Commerce Commissions can not properly approve the increased rates which are under suspension in these proceedings from the Illinois mines of our member companies to the Northern Illinois points involved, and why the Interstate Commerce Commission cannot properly require such rates to be increased under the 13th Section, and these reasons will be more fully developed in my later testimony and exhibits and in our brief in these proceedings.

By Mr. Stadell:

Q. Have you prepared an exhibit showing the present and suspended rates from the Illinois, Indiana, and Western Kentucky mines to the representative suspended and representative comparative points and the comparative average level of the present and suspended rates from such mines to such points?

A. Yes. This information is shown in my Exhibit No. 23.

Q. Will you please explain what this exhibit shows, in so far as any explanation is necessary?

A. This exhibit consists of 29 pages. On pages 1 to 12, inclusive, I have shown the average short tariff route distances, the present suspended rates from each group in Illinois, Indiana and Western Kentucky to the representative suspended points, the ton mile earnings produced by such rates and average distances, and the percentage such rates are of the Midland scale and the 23922 scale. I have

[fol. 1399] also shown in this portion of such exhibit the average level of the present and suspended rates to each of the 12 representative suspended destinations from Western Kentucky and from the Illinois mines as well as from all of the Indiana mines as a whole.

On pages 13 to 29, inclusive, I have shown the same character of information with respect to the average short tariff route distances and the present rates from the Illinois, Indiana and Western Kentucky mines to the 14 representative comparative points.

(Exhibit No. 23, Witness Rozene, received in evidence.)

By Mr. McElroy:

Q. Just generally what does that exhibit indicate, that the Illinois intrastate rates are higher or lower than the general level of interstate rates?

A. I will come to that a little later on, Mr. Examiner.

Mr. McElroy: All right.

By Exam. Trezise:

Q. You do compare the short tariff route mileage with the shortest tariff route mileage.

A. I will also come to that later on. I am using the shortest tariff route in this instance.

Q. Except in making your comparison with the Midland scale, that was the short tariff route?

A. Yes, sir.

By Mr. Stadell:

Q. Where did you obtain the average short tariff route mileages and the present and suspended rates which you [fol. 1400] have used in this exhibit from the Illinois, Indiana, and Western Kentucky mines to the representative suspended and representative comparative points?

A. In order to completely avoid any controversy with respect to the average mileages which are used in this exhibit or with respect to the method used in computing such mileages, and in order to resolve every possible doubt in favor of the petitioning and respondent railroads' side of the case, we have used the average short tariff route mileages and the present and suspended rates which were presented by them in these proceedings in their Exhibits Nos.

3 and 4, except that from origin points in the Northern Illinois and Fulton County groups we have used the average short tariff route mileages which were computed by Mr. A. J. Christiansen, and which will be presented later by him in an exhibit as a part of his evidence in these proceedings.

Q. Why did you use the average short tariff route mileages computed by Mr. Christiansen rather than those computed by the railroads from the origins in the Northern Illinois and Fulton County districts to the points involved?

A. Because his exhibit was more clear and somewhat easier to check and to obtain the averages than that of the railroads. I might say, that the average mileages computed by him and used by me in this exhibit from origins in the Northern Illinois and Fulton County districts are substan- [fol. 1401] tially the same in every case as those contained in the railroads' exhibit from such origins to such points, so that it makes no difference whether his mileages or those of the railroads are used from such origins to such points.

By Exam. Trezise:

Q. May I just ask for my own guidance, that when you show a rate or a distance, say, from any one of these points in northern Illinois, did you take all of the rates from those points or did you just take what sometimes is referred to as the going rate?

A. I took all of the rates.

Q. Then you took all of the distances, too?

A. I took all of the rates and the distances that applies to each of those rates.

Q. And that could be then said to be the average of the distances from the points?

A. From the points taking those rates, yes, sir.

Mr. Boden: Might I ask a question for clarification, Mr. Examiner.

Exam. Trezise: All right.

By Mr. Boden:

Q. Just for clarification, on sheet 1, I notice Northern Illinois to Amboy, you show three rates. Will you explain what those three different rates are?

A. If you look at the carriers' exhibit, they are identically the same rates that are shown in the carriers' exhibit.

There are three different rates from Northern Illinois to Amboy.

[fol. 1402]. By Mr. Stadell:

Q. In other words, these three different rates apply from different origins in the Northern Illinois group to Amboy?

A. Yes, sir.

Q. And you have shown each of them?

A. Yes, sir.

Q. Just as you have in connection with the rates from every other group where there was a rate in connection with the origin group?

A. Yes, sir.

By Exam. Trezise:

Q. Now, where the rate is 10 or 15 or 25 cents higher over one route than over the other from the same origin point to a given destination, you took both of them, if such a thing is true?

A. That is right; if it is shown in the carriers' exhibit that way, I have taken it that way.

By Mr. Vesey:

Q. But as a matter of fact, Mr. Rozene, the rates you show from Northern Illinois, from Fulton-Peoria, are in effect the going rates?

A. I have shown the going rates in addition to any other rate, if they happen to have one.

By Mr. Stadell:

Q. You have shown all of the rates involved in this proceeding that the railroads are trying to increase?

A. Yes, sir.

Q. And you don't know of any other way that you could [fol. 1403] get an average level of the rates from any group of mines, do you?

A. No, unless I went to work and started to hand-pick them. For my own satisfaction, the only way I could be fair to everybody is to take them all.

Q. What is your next exhibit?

A. My next exhibit, which has been marked No. 24, is, in substance, a recapitulation of the information which is shown in my preceding exhibit, No. 23, with respect to the

comparative levels of the present and suspended rates from the Illinois, Indiana, and Western Kentucky mines to the 12 representative suspended Northern Illinois points, and with respect to the comparative levels of the present rates from such mines to the 14 representative comparative points.

(Exhibit No. 24, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. What is your next exhibit?

A. My next exhibit, which has been marked No. 25, is based upon the information that is contained in my two preceding exhibits, and shows the average level of the present and suspended rates from the Illinois mines, from the Indiana mines, from the Western Kentucky mines, from the Indiana and Western Kentucky mines combined, to the 12 representative suspended points and the average level of the present rates from such mines to the 14 representative comparative points, as measured by the ton mile earnings [fol. 1404] produced by such rates, and by the percentage that such rates are of the Midland Electric scale.

(Exhibit No. 25, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Now, have you prepared a graphic chart portraying in graphic form the comparative average levels of the present and suspended rates from the Illinois mines, the Indiana mines, and the Western Kentucky mines to the 12 representative suspended points and the comparative average levels of the present rates from such mines to the 14 representatives comparative points, as measured by the ton mile earnings produced by such rates, and by the percentage that such rates are of the Midland Electric scale?

A. Yes, I have prepared such a chart and it has been marked as Exhibit No. 26.

Q. Will you please briefly explain this exhibit in so far as any explanation is necessary.

A. Columns B to E, inclusive, of this exhibit, show the comparative levels of the present and suspended intrastate rates from the Illinois mines to the 12 representative suspended Northern Illinois points, and the average level of the present and suspended interstate rates from the Indiana

and Western Kentucky mines to such points, as measured by the Midland Electric scale.

From Column B it will be observed that the present intrastate rates from the Illinois mines to the 12 representative [fol. 1405] Northern Illinois points average 79 per cent of the Midland scale, and that the suspended rates from such mines to such points average 82 per cent of such scale. Contrasted with this, columns C and D of such exhibit show that the present interstate rates from the Indiana and Western Kentucky mines to such Northern Illinois points average but 69 and 71 per cent, respectively, of that scale, while the suspended interstate rates from the Indiana and Western Kentucky mines to such points average but 72 and 73 per cent, respectively, of such scale, or a substantially lower percentage in each case than is reflected by either the present or suspended intrastate rates from the Illinois mines. Column E shows that the present interstate rates from the Indiana and Western Kentucky mines combined to the 12 representative Northern Illinois points average but 69 per cent of the Midland scale, while the suspended interstate rates from such mines to such points average but 72 per cent of such scale.

In other words, while the present interstate rates from the Indiana and Western Kentucky mines combined to these representative Northern Illinois points, and the suspended interstate rates from such mines to such points average but 69 and 72 per cent, respectively, of the Midland scale, the present and suspended intrastate rates from the Illinois mines to such points average 79 and 82 per cent, respectively, of such scale or 10 percentage points higher in each case.

[fol. 1406] In columns F to I, inclusive, of this exhibit, we have shown the average level of the present rates from the Illinois, Indiana, and Western Kentucky mines and from the Indiana and Western Kentucky mines combined, to the 14 representative comparative points.

I desire to call particular attention to the fact that as indicated in columns G and I of this exhibit, the present rates from the Indiana mines and from the Indiana and Western Kentucky mines, combined, to the 14 representative comparative points, average but 78 per cent of the Midland scale, while as is shown in Column B the present intrastate rates from the Illinois mines to the representa-

tive suspended Illinois points average 79 per cent of the scale.

In other words, if the present rates from the Indiana mines or from the Indiana and Western Kentucky mines to the representative comparative points are used as a yardstick for measuring the reasonableness and lawfulness of the present intrastate rates from the Illinois mines to the Northern Illinois territory involved in this proceeding; such intrastate ra s are shown to be on a proper and lawful level and in fact on a higher level than the present rates from the Indiana and Western Kentucky mines to such points.

A comparison of column B with columns C, D and E, and with columns G, H and I, clearly indicates that the suspended increased intrastate rates from the Illinois mines [fol. 1407] to the Northern Illinois points involved, which are under suspension in these proceedings, are on a considerably higher level than either present or suspended rates from the Indiana and Western Kentucky mines to such points, or the present rates from the Indiana and Western Kentucky mines to the representative comparative points.

As a matter of fact, as is shown in columns B, C, D and E, the present intrastate rates from the Illinois mines to the 12 representative suspended points are on a substantially higher level than are even the increased suspended rates from the Indiana or Western Kentucky mines to such points, the present intrastate rates from the Illinois mines to such points averaging 79 per cent of the Midland scale, and the proposed increased interstate rates from the Indiana mines and from the Indiana and Western Kentucky mines combined, to such points, averaging but 72 per cent of such scale, or 7 per centage points lower. There can obviously be no justification whatever for a higher level of rates on coal from the Illinois mines to points in Northern Illinois than from the Indiana and Western Kentucky mines, which are the principal competitors of the Illinois mines in such territory. Nor can there be any justification for a higher level of rates intrastate from the Illinois mines to the Northern Illinois territory involved in these proceedings than from the Indiana or Indiana and Western Kentucky mines to the comparative beyond.

In columns K to M of this exhibit, I have compared the [fol. 1408] average level of the present and suspended rates from the Illinois mines to the 12 representative suspended Northern Illinois points with the average level of the present and suspended interstate rates from the Indiana and Western Kentucky mines to such points, as measured by the ton-mile earnings produced by such rates. A mere glance at this portion of such exhibit clearly reveals the much higher level of both the present and suspended intrastate rates from the Illinois mines than of the present or suspended interstate rates from the Indiana and Western Kentucky mines.

Column K shows that the present intrastate rates from the Illinois mines to the representative suspended Northern Illinois points produce average ton-mile earnings of 9.7 mills, while the present interstate rates from the Indiana mines produce average ton-mile earnings of but 6.4 mills and the present rate from the Western Kentucky mines but 5.6 mills. While the present intrastate rates from the Illinois mines to the Northern Illinois points involved produce average ton-mile earnings of 9.7 mills, the proposed increased interstate rates from the Indiana mines produce average earnings of but 6.6 mills and the proposed increased interstate rates from the Western Kentucky mines produce average ton-mile earnings of but 5.9 mills. In other words, even if the proposed increases in the Illinois intrastate rates which are under suspension in these proceedings were disapproved and the increases which are [fol. 1409] proposed in the interstate rates from the Indiana and Western Kentucky mines to the representative suspended points were approved and established, the Illinois intrastate rates would still be on a substantially higher level than the interstate rates from the Indiana and Western Kentucky mines.

In columns O to R of this exhibit, I have shown the average ton-mile earnings produced by the present rates from the Illinois mines, the Indiana mines, the Western Kentucky mines and from the Indiana and Western Kentucky mines combined, to the 14 representative comparative points. Here again it will be observed that the average ton-mile earnings produced by the present intrastate rates from the Illinois mines to the representative Northern Illinois points, as shown in Column K, are about one-third

higher than the average ton-mile earnings that are produced by the present rates from the Indiana or Western Kentucky mines or from the Indiana and Western Kentucky mines combined.

As shown by columns K to R of this exhibit, if either the present or suspended rates from the Indiana and Western Kentucky mines to the suspended Northern Illinois points, or the present rates from the Indiana or Indiana and Western Kentucky mines to the representative comparative points, are used as a yardstick to measure the present intrastate rates from the Illinois mines to the Northern Illinois points involved, it will be found either that the present rates from the Illinois mines to such Northern [fol. 1410] Illinois points are excessively high or that the present and suspended rates from the Indiana and Western Kentucky mines to such points and the present rates from such mines to the representative comparative points are too low.

Exam. Trezise: I just want to inquire about the last statement there. You think what you have shown on this Exhibit 26 is an improper rate adjustment, is that the idea?

The Witness: No. I have shown here that the present Illinois intrastate rates are on a higher level than either the interstate from Western Kentucky or Indiana.

Exam. Trezise: Oh, yes, you include these interstate rates as well. What I had in mind was, and I think the Commission would want to know, if you took a number of short haul rates under the Midland scale and compared the percentages and compared them with longer hauls under the Midland scale, naturally you would get the variation. The average of the shorter hauls would show a greater percentage of the Midland scale than the longer hauls because the Midland scale decreases to some extent when it gets above the distances of these suspended rates within the state.

The Witness: Well, that is true, Mr. Examiner, but what I am trying to show here is a level of all of the rates in this territory.

Mr. Vesey: Just so I can follow that, doesn't the Examiner's question assume, of course, that the Midland scale is [fol. 1411] properly graded for the varying distances, or did the Examiner assume that?

Exam. Trezise: I am not assuming anything, but I am just trying to ask, isn't the result of your graph here the natural thing—wouldn't it be a proper thing to show, if you mixed up a lot of shorter hauls with the longer hauls and averaged them, you would have a greater percentage of the Midland scale than if you took the commensurate hauls or similar hauls?

The Witness: Well, they would vary between length of haul to some extent, but in these cases in the past that I have been in, they have used short hauls and long hauls and all kinds of hauls to show ton-mile earnings. That is what I am trying to show, what the condition is as it exists today.

Mr. McElroy: Whatever imperfections are shown by the Midland scale, would that be compensated for by reason of the showing for the ton-mile earnings?

The Witness: Yes.

Mr. McElroy: Assuming the Midland scale is improper.

The Witness: Yes.

Mr. McElroy: Would the ton-mile earnings shown on this exhibit be proper?

The Witness: Yes, they would.

Exam. Trezise: The point I make is you can't compare short hauls with long hauls, and if you put short hauls in with long hauls and average them up you are going to [fol. 1412] have a greater percentage on your Illinois relationship to the Midland scale than if you took distances from Indiana to those destinations which are longer and naturally would be relatively lower. You think out a nice answer to help the Commission before we get through on this.

The Witness: I think that will be very clearly stated before we are through.

Exam. Trezise: Thank you.

By Mr. Stadell:

Q. Upon what average mileages is the data shown in your graphic chart Exhibit No. 26 based?

A. The average short tariff mileages which were presented by the railroads in their exhibits 3 and 4 in this proceeding and from origins in the Northern Illinois and Fulton-Peoria districts, the average short tariff route mileages which were computed and will be presented by Mr.

A. J. Christiansen in an exhibit in these proceedings. As I previously stated, those were the average mileages that I used in my three preceding Exhibits Nos. 23, 24 and 25, and this graphic chart simply presents in picture form the data that is shown in those exhibits.

(Exhibit No. 26, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Have you computed the average distances from the Illinois and Indiana mines to the representative suspended and representative comparative points, and if so, what [fol. 1413] method did you use for the computation of such average mileages?

A. Yes, in accordance with the agreement reached between the parties at the prehearing conference which was held in these proceedings last November, I have computed the average mileages over the shortest tariff routes from all of the mines in the various Illinois groups and from all of the mines in the various Indiana groups to the 12 representative suspended and to the 14 representative comparative points. These average shortest tariff route mileages and the present rates from each of the Illinois mines and groups to the representative suspended and representative comparative points are contained in my Exhibit No. 27, while the average shortest tariff route mileages and the present rates from each of the Indiana groups to such points are shown in my Exhibit No. 28.

Q. What is the difference between the method used by you in computing the average shortest tariff route distances from the Illinois and Indiana mines to the representative suspended and representative comparative points and the method used by the railroads in computing their average distances over the short tariff routes from such mines to such points?

A. Many of the mines and tariff origin points in the Southern Illinois and some of the other Illinois groups are served by more than one railroad, while the mines or tariff origin points in the various Indiana groups are generally [fol. 1414] served by but one railroad. For example, reference to line 43, page 1, of my Exhibit No. 27, shows that the Royalton-Energy mine in the Southern Illinois group is served by three railroads, namely, the Chicago, Burlington & Quincy, the Illinois Central, and Missouri Pacific

Railroads. Although this mine and various others in that group are served by two, three, or four railroads in some cases, it is our position that there can be but one short tariff route from each of such mines or origins to a given destination, such as Rockford, Illinois, for example.

In computing their average short tariff route distances, however, the railroads have used the distance over the tariff route of each of the railroads which serve these mines or tariff origins to the representative suspended and representative comparative points. This results in the use of a duplication of routes and in an inflated average mileage. It also results, for all practical purposes, in computing mileages from the Southern Illinois and the other Illinois mines which are served by more than one railroad by a different method than the method which they used in computing the average short tariff route mileages from the Indiana mines, because from those mines distances are used in virtually every case over but one short tariff route from each mine or tariff origin point to each of the representative suspended and representative comparative points. Therefore, in the computation of our average shortest tariff route [fol. 1415] distances from the Southern Illinois and other Illinois mines, as well as from the Indiana mines to the representative suspended and comparative points, which are shown in my exhibits Nos. 27 and 28, I have used the distance from each of such mines or the tariff origin points in each of the Illinois and Indiana groups but once, that is, via the origin carrier having the short tariff route to such point.

In several recent cases the Interstate Commerce Commission has refused to use average distances computed over the short tariff routes by the method used by the railroads in their exhibits in these proceedings, and used instead the average distance over the shortest tariff routes computed under the method which I have used in my exhibits Nos. 27 and 28. Among these cases are Midland Electric Coal Corporation vs. Chicago & North Western Railway Company, et al., 225 ICC 349; 232 ICC 5, in which the rates from and differentials between all of the Illinois groups to all destinations in Iowa were involved; Traffic Bureau of Sioux Falls Chamber of Commerce vs. Chicago, Milwaukee, St. Paul & Pacific Railroad Company, et al., 251 ICC 241, involving the rates from all mines in Illinois, Indiana and Western Kentucky, to destinations in South

Dakota, and Fairbanks-Morse & Company, et al., vs. Alton & Southern Railway Company, et al., 251 ICC 181, which involved the rates on coal from all mines in Illinois, Indiana, and Western Kentucky to Beloit, Janesville, Ft. Atkinson, and Lake Mills, Wisconsin.

[fol. 1416] We believe that the average shortest tariff route distances present a much fairer picture of the average distances from the Illinois mines, on the one hand, and the Indiana mines on the other, than do the average short tariff route distances which are contained in the railroads' exhibits in these proceedings, because under the latter method of computing the average distances the Illinois and Indiana mines are not accorded like for like treatment, but the Indiana mines are accorded a substantial preference by having their mileages computed by the use of but one tariff route from each origin point or mine, while the average mileages from the Southern Illinois and some of the other Illinois mines which are served by more than one railroad, are considerably inflated because they are computed by the use of the mileages over as many as three or four routes from many of the individual mines or tariff origin points which represent them.

Q. Will you now please take up and explain your Exhibit No. 27, in so far as it needs any explanation?

A. I have shown on the title page of this exhibit an index to all of the data which it contains.

On page 1, I have shown the name of each mine or tariff origin point in the Southern Illinois group, the name of the railroad serving each of such mines or tariff origin points, the present rates, and the shortest tariff route mileage from each of such mines or origin points to Amboy [fol. 1417] and Belvidere, two of the representative suspended points, reference to the route over which such mileage applies, and the average mileage from all of the mines or tariff origin points in such group to the two destinations named.

On pages 2 to 6, inclusive, I have shown the shortest tariff route mileage and present rate from each of the mines or tariff origin points in the Southern Illinois group to the other representative suspended Northern Illinois points, and to the 14 representative comparative points, and at the bottom of each of such pages the average mileages from all of the mines or tariff origin points in such group to each of such representative points as shown.

Similar information is shown for the mines and tariff origin points in the Springfield, Illinois, group on pages 7 to 12, inclusive, of this exhibit. Pages 13 to 18, inclusive, contain the same information with respect to the rates and average mileages from the mines and tariff origin points in the Belleville, Illinois, group to the representative suspended and comparative points. On pages 19 to 24, inclusive, I have shown the same information with respect to the present rates and average mileages from all of the mines or tariff origin points in the Danville, Centralia, and DuQuoin, Illinois, groups to the representative suspended and comparative points.

On pages 25 to 28, inclusive, I have shown the distances over the shortest tariff routes and the present and sus- [fol. 1418] pended rates from the mines at Alpha, Atkinson, Victoria, and Rushville, Illinois, to the representative suspended and representative comparative points, and the average shortest tariff route mileage and average present and suspended rate from each of such mines to all of the 12 representative suspended and to all of the 14 representative comparative points.

Page 29 contains the same information with respect to the average shortest tariff route mileages and the present and suspended rates from the Northern Illinois group to the representative suspended and comparative points.

Page 30 of this exhibit shows the average shortest tariff route distance and the present and suspended rates from the Fulton-Peoria group to such representative points and the average shortest tariff route distance and present and suspended rates from such group to all of the representative suspended and all of the representative comparative points.

The average shortest tariff route mileage and the average of the present and suspended rates from the Southern Illinois, Springfield, Illinois, Belleville, Danville, Centralia, and DuQuoin, Illinois, groups are shown on pages 31 to 36 of such exhibit.

Page 37 contains a recapitulation and shows the average shortest tariff route distance, the average present and average suspended rate from all of the Illinois groups and mines to the 12 representative suspended points and the [fol. 1419] average shortest tariff route distance and the average present rate from all of such groups and mines to the 14 representative comparative points.

Pages 38 to 42 contain an explanation of the shortest tariff routes over which the average mileages contained in such exhibit were computed, and page 43 shows the tariff authority for the rates and distances used in such exhibit.

Exam. Trezise: We will have a few minutes' recess.

(A recess was taken.)

Exam. Trezise: All right, gentlemen, let us continue.

By Mr. Stadell:

Q. In the heading on pages 25 to 30, inclusive, of your Exhibit No. 27, you indicate that the rates and distances were taken from an exhibit of Mr. Christiansen. That is an exhibit that you referred to that will be introduced later in the case by him?

A. Yes, sir.

Q. Of what significance are the words which appear in line 15 on page 31, of Exhibit No. 27 as illustrative, "except Belvidere", which are followed by figures showing total miles and average shortest tariff route mileage and average present and suspended rate from the Southern Illinois group to the 12 representative suspended points?

A. While, as I will show later on in my testimony and exhibits, many of the short tariff or shortest tariff routes from the Southern Illinois mines to the representative sus- [fol. 1420] pended points are extremely circuitous, and therefore reflect greatly inflated distances as compared with the distances which would apply in connection with practical or reasonable short tariff routes from such mines to such points, I thought it advisable in view of the extreme circuity involved in the short tariff and shortest tariff routes to Belvidere to show the picture with respect to that destination separately in this exhibit.

While you will note that I have shown in line 2 on page 31 of my Exhibit No. 27 the average shortest tariff route distance from the Southern Illinois group to Belvidere, Illinois, and this mileage has been used in securing the average shortest tariff route distance from that group to all 12 of the representative suspended points, I have also shown in line 15 that if the average shortest tariff route distance to Belvidere were excluded the average shortest tariff route distance from the Southern Illinois group to

the other representative suspended points would be reduced 7 miles.

On pages 25 to 37, inclusive, of this exhibit I have shown the average shortest tariff route distance from each of the Illinois groups or individual mines, where such mines are not included within any group, to the 12 representative suspended points in two ways, first, including the average shortest tariff route mileage from such groups or mines to Belvidere, and second, excluding the average shortest tariff route mileage from such group or mines to that point. [fol. 1421] In order to clearly demonstrate the inflation in the average short tariff and average shortest tariff route mileage which results from the use of the excessively circuitous short tariff and shortest tariff routes from the Southern Illinois group to the representative suspended points, and the extreme unfairness of attempting to measure the lawfulness of the present or suspended rates from that group to such points by the use of such mileage, I would like to direct your attention to the relative geographical location of Belvidere, Illinois, on the one hand, and Madison, Wisconsin, on the other on my map Exhibit No. 20.

From this map it will be found that Belvidere is located geographically approximately 75 miles nearer the Southern Illinois group than is Madison, Wisconsin. Notwithstanding the fact, however, that Belvidere is geographically about 75 miles nearer the Southern Illinois mines than is Madison, Wisconsin, it will be noted from pages 4 and 64 of the railroads' Exhibit No. 4 in these proceedings that the average short tariff route mileage from that group to Madison, Wisconsin, is 420 miles, and to Belvidere 437.4 miles, or 17.4 miles greater than to Madison. As shown on page 31 of my Exhibit No. 27, the average shortest tariff route mileage from the Southern Illinois group to Madison is 423 miles and to Belvidere 428 miles or 5 miles greater. In other words, the railroads, by using the extremely circuitous short tariff routes from the Southern Illinois group to Belvidere, as illustrative, and the greatly inflated distances [fol. 1422] produced by the use of such circuitous routes in measuring the lawfulness of the present and suspended rates from that group to that point, are asking the Commission to close its eyes to the actual geographical location of Belvidere and to treat that point as if it were actually located 17.4 miles north of Madison, Wisconsin, instead of about 75 miles south of that point.

Substantially the same would be true if the average distances over the shortest tariff routes were used in measuring the level or lawfulness of the present rates from the Southern Illinois group to the representative suspended points, or the relative level of such rates with those from the Indiana mines to such points, as the average shortest tariff route distance from the Southern Illinois group to Belvidere is, as I previously pointed out, 5 miles greater than to Madison, Wisconsin. It is our view that the only way the rates from the Southern Illinois group to the representative suspended points can be properly measured in their relation to the rates of Madison and other comparative points beyond, or in relation to the rates from the Indiana groups or some of the other Illinois groups from which the short tariff routes to the representative suspended points are not circuitous, is by the use of average distances over short circuit routes, that is, the average distances from each group to each of such points computed in accordance with the formula prescribed by the Commission in the General Class [fol. 1423] Rate Cases, Dockets Nos. 17000, part 2 and 15879.

Mr. McElroy: What is 15879?

Mr. Bather: That is the Eastern Class Rate Investigation.

By Mr. Stadell:

Q. Now, what mileages did the Commission use in the previous Illinois 13th Section case, Docket 23130?

A. They made what is usually referred to as a short rate making mileage, that is, the shortest mileage from a given particular group or certain mines in the group.

Q. That is the mileage over what they referred to as the rate making line from each group to the destination involved?

A. Yes, sir.

Exam. Trezise: That was the shortest tariff route, wasn't it?

Mr. Stadell: No.

Exam. Trezise: It was not the shortest tariff route for the short hauls? We prescribed some short hauls in there, or were you not talking about those?

Mr. Wilkinson: Well, just a minute. In making that answer, Mr. Rozene, are you sure they did that from all groups?

The Witness: I think they did that from—in setting up their report they used the short tariff rate making line.

Mr. Wilkinson: Didn't you——

Mr. Stadell: Is this cross examination?

Mr. Wilkinson: Yes, on this.

Mr. Stadell: I object to being interrupted on my direct. [fol. 1424] You can reserve your questions for cross examination.

Mr. Wilkinson: All right.

Mr. Stadell: If you want to ask a question to clarify anything on the exhibits, that is all right.

Mr. Wilkinson: Then I move, Mr. Examiner, that the witness' reference to what the Commission used in its report in Docket 23130 be stricken as the report will speak for itself.

Mr. McElroy: Note the objection.

Exam. Trezise: Now, in applying the foregoing each distance should be computed over the shortest tariff routes. Now, you say that isn't so. I am reading from the report.

Mr. Wilkinson: In 23130?

Exam. Trezise: 23130, yes. Now, you say that isn't the fact. I am talking about the short hauls. I just asked you about the short hauls.

The Witness: Where you prescribed a scale, you didn't do that; you prescribed a scale for certain mileages.

Mr. Wilkinson: Off the record, Mr. Examiner.

Exam. Trezise: All right, off the record.

(Discussion outside the record.)

Exam. Trezise: Go ahead.

By Mr. Stadell:

Q. Will you now please take up and explain your Exhibit No. 23 showing the average shortest tariff route mileage and present suspended rates to the representative suspended points and the average shortest tariff route mile- [fol. 1425] ages and present rates to the representative comparative points from the Indiana mines.

A. This exhibit is identical in construction with my preceding exhibit. It shows the names of the mines and tariff

origin points in each of the Indiana groups; the name of the railroad serving each of such mines or origin points; the average mileage over the shortest tariff route from each of such mines or origin points to each of the 12 representative suspended points; an explanation of the routes over which such mileages apply, and the present and suspended rates from all of the origin points or mines in such groups to such points, as well as the average shortest tariff route mileage from all of the origin points or mines in each of such groups and the present rates to each of the 14 representative comparative points.

Q. Now, right at this point I would like to ask you if the average shortest tariff route mileages that are shown in your Exhibits Nos. 27 and 28 from the Illinois and Indiana mines to the suspended and comparative points were computed in accordance with the formula laid down and followed by the Commission in the Midland Electric Coal case?

A. Yes, they were, with possibly one exception, and that is that if we had, say, two rates from one particular origin point, we took the lowest rate and figured the mileage that applied to that lowest rate. As I have indicated on my Exhibit No. 27, I say the distances via the shortest tariff routes [fol. 1426] over which the going rate applies. Now, there may be some instances where the rate is higher. I might explain that further by referring you to page 3 of my Exhibit No. 27. In columns B and C I show the distance from Southern Illinois to Geneva, Illinois, and I show the rate as being $2.00. Now, the footnote at the bottom of the page indicates that the rate from I. C. mines is $2.17 via I. C., Matteson, EJ&E, West Chicago, C&NW, and that the distance is 335 miles. By the use of this route the average distance would be as shown in line 58, instead of 382, it would be 365 miles.

Now, that comes about in this way; that the Illinois Central maintains a rate of $2.00 from Southern Illinois to Geneva via the Illinois Central, South Pekin, Illinois, and C&NW, and we have used that long mileage in computing this exhibit because it carries the lowest rate. However, they have a much shorter route at a higher rate. So we were compelled to use the going rate in all instances.

Exam. Trezise: Did you do that to Indiana, too?

The Witness: Yes, sir. I showed the mileage with the going rate in all instances.

Exam. Trezise: Well, going——

The Witness: That means the lowest rate.

Exam. Trezise: The lower of two rates, if there are two rates?

The Witness: That is right. In this case, as I pointed [fol. 1427] out, there are two rates.

Exam. Trezise: I was just raising the question of the going rate.

The Witness: Well, it is generally referred to as the going rate—the lowest rate as the going rate.

Exam. Trezise: Well, in coal business not necessarily, that isn't true, is it?

The Witness: Well, we always refer to the lowest rate as the going rate.

Exam. Trezise: Well, the coal moves on a higher rate?

The Witness: Take from Mauren mine to Geneva, I don't think any coal will move on $2.17 when there is a $2.00 rate to the same destination.

Mr. Stadell: From the same mine?

The Witness: From the same mine to the same destination.

Exam. Trezise: From the identical mine, I see.

Mr. Stadell: Yes.

Exam. Trezise: But you wouldn't say that from Indiana where a lower rate applies from a mine in the group than from another mine in the group, of course, you wouldn't include that?

The Witness: Well, if you are taking two different mines——

Exam. Trezise: Two different mines in the same group.

The Witness: That is different. I thought there might be something in the coal price that would take care of that.

By Mr. Stadell:

Q. And you computed these mileages from all origins or [fol. 1428] mines named in the railroads' tariffs?

A. Yes, sir.

Exam. Trezise: We will adjourn until ten o'clock tomorrow morning.

(At 4:30 p. m., September 23, 1943, adjourned to 10:00 a. m. September 24, 1943.)

[fol. 1429]

Morrison Hotel,
Chicago, Illinois,
September 24, 1943.

The hearing was resumed pursuant to adjournment, at 10:00 o'clock, a. m.

Before: R. N. Trezise, Examiner, F. B. McElroy, Illinois Commerce Commission

Appearances: As heretofore noted.

PROCEEDINGS

Exam. Trezise: All right, gentlemen, when you are ready, let us continue.

HARRY A. ROZENE resumed:

Direct examination (Continued).

By Mr. Stadell:

Q. I don't know, Mr. Rozene, whether the record is entirely clear on the method which you stated that you used in computing the average shortest tariff route distances from the Illinois and Indiana groups to the representative suspended and representative comparative points, because you made some reference to the fact that you had used the shortest tariff route mileage from the origin or mine having the going rate. Now, do you mean by that, that you used the average shortest tariff route mileage from every origin and every mine in each of the groups to each of the sus-
[fol. 1430] pended and comparative points where there was but one rate from that origin or mine?

A. That is right.

Q. And where there were two rates, one higher and one lower, from the same identical origin or mine, then you computed the distance over the route over which the lower of the two rates applied?

A. That is correct, yes, sir.

Q. But where you found that there were differing rates from different origins or mines in the same group, you took the mileage from each of those origins over the routes over which those differing rates applied?

A. Yes, sir.

Exam. Trezise: And you are now talking about your Exhibits 27 and 28?

Mr. Stadell: Yes.

Mr. Wilkinson: May I ask one question there, Mr. Stadell?

Mr. Stadell: Yes.

By Mr. Wilkinson:

Q. If you had a mine served by two carriers and each of those carriers had different rates, different routes, did you use both rates and routes?

A. If the rate was the same?

Q. No, if the rate differed.

A. I used the lower rate. I wouldn't use it twice. I would only use that point once and I would use the lower rate.

[fol. 1431] Exam. Trezise: If it was the identical mine?

The Witness: That is correct, yes, sir.

Exam. Trezise: But if it was a different mine with a different rate in the same group, you showed them both?

The Witness: Yes, sir.

By Mr. Stadell:

Q. And you did the same both from the Indiana and the Illinois groups?

A. Yes, sir.

Q. In your Exhibits 27 and 28?

A. Yes, sir.

Q. Now, in connection with the average mileages over the shortest tariff route shown in your Exhibit No. 28 from the Indiana groups, have you shown the average from each of those groups to the representative suspended points, including the mileage to Belvidere, and excluding the mileage to Belvidere, as you did in the case of the average shortest tariff route mileages from the Southern Illinois and other Illinois groups in your preceding exhibit?

A. Yes, in precisely the same manner. As indicated on page 19 of my Exhibit No. 28, you will note that I have shown the average shortest tariff route mileage from the Princeton-Ayrshire group, as illustrative, to all of the representative suspended points, including Belvidere, and in line 24 I have shown the average shortest tariff route

mileage from that group to all such points, including Belvidere. As I previously stated, the average shortest tariff

[fol. 1432] route mileage from the Southern Illinois group to these representative suspended points was reduced 7 miles by the exclusion of the mileage to Belvidere, however as shown in line 24, page 19, of my Exhibit No. 28, the average shortest tariff route mileage from the Princeton-Ayrshire group to the representative suspended points is identically the same, namely, 358 miles, whether the average shortest tariff route mileage from that group to Belvidere is included or excluded.

As I previously stated, the average short tariff route mileage from the Southern Illinois group to Belvidere is 17.4 miles greater and the average shortest tariff route mileage from that group to that point is 5 miles greater than to Madison, Wisconsin, which from a geographical standpoint is approximately 75 miles further north. As shown on page 19 of my Exhibit No. 28, however, the average shortest tariff route mileage from the Princeton-Ayrshire group to Belvidere over the routes over which the going rate applies is 63 miles shorter than the average shortest tariff route mileage from that group to Madison.

(Exhibits 27 and 28, Witness Rozene, received in evidence.)

Q. Have you prepared an exhibit showing the comparative average levels of the present and suspended rates from the Illinois mines, on the one hand, and the Indiana mines on the other, to the representative suspended points, and the average levels of the present rates from such mines to the representative comparative points based upon the average [fol. 1433] mileages over the shortest tariff routes which are contained in your Exhibits Nos. 27 and 28?

A. Yes. My Exhibit No. 29 presents such a comparison. Pages 1 to 6, inclusive, of this exhibit, show the names of each of the Illinois and Indiana groups, the present and suspended rates, and the average shortest tariff route mileage from each of such groups to each of the 12 representative suspended points, as well as the ton-mile earnings which are produced by such rates and average mileages, and the percentage that such rates are of the Midland Electric scale.

I have also shown the average present and suspended rates and the average shortest tariff route mileages from the Illinois groups and mines as a whole, and from the Indiana groups and mines as a whole, to each of the representative suspended points, as well as the ton-mile earnings that are produced by such average rates and mileages, and the percentage that the rates from the Illinois groups and mines as a whole, and the Indiana groups and mines as a whole, to each of such destinations is of the Midland scale.

On pages 7 to 13, inclusive, I have shown the same character of information with respect to the present rates, the average shortest tariff route mileage, the ton-mile earnings that are produced by such rates and average mileages, and the percentage that such rates are of the Midland scale from each of the Illinois and Indiana groups to each of the [fol. 1434] 14 representative comparative points.

Page 14 of this exhibit contains a summary of all of the data that *is* shown in the preceding 13 pages of such exhibit. On this page I have shown the average level of the rates from the Illinois mines as a whole to all of the representative suspended and to all of the representative comparative points in comparison with the average level of the rates from the Indiana mines as a whole to all of the representative suspended and representative comparative points, using the ton-mile earnings produced by such rates and the Midland scale as yardsticks.

Pages 15 and 16 of my Exhibit No. 29 are graphic charts upon which I have portrayed in graphic form the information shown in the preceding pages of such exhibit with respect to the comparative average levels of the present and suspended rates from the Illinois mines, on the one hand, and the Indiana mines on the other, to the representative suspended and representative comparative points, as measured by the ton-mile earnings produced by such rates and by the percentage that such rates are of the Midland scale.

The graphic chart on page 15 of this exhibit shows that the present rates from the Indiana mines to the 12 representative suspended points produce average earnings of but 6.4 mills per ton mile, while the present rates from the Illinois mines produce average earnings of 10 mills per ton mile, or 3.6 mills per ton mile, or 56 per cent higher [fol. 1435] earnings than are produced by the present rates from the Indiana mines to such points. The increased

suspended rates from the Indiana mines to the representative suspended points produce average earnings of but 6.7 mills per ton mile, while the suspended rates from the Illinois mines to such points produce average ton mile earnings of 10.4 mills or 3.7 mills per ton mile or 55 per cent higher average earnings.

I desire to direct particular attention to the comparison shown on page 15 of this exhibit between the ton mile earnings of but 7 mills produced by the present rates from the Indiana mines to the 14 representative comparative points, as compared with the average earnings of 10 mills per ton mile produced by the present intrastate rates from the Illinois mines to the 12 representative suspended Illinois points. In other words, when measured either by the present or suspended rates from the Indiana mines to the representative suspended points or by the present rates from the Indiana mines to the representative comparative points, the present intrastate rates from the Illinois mines to the Northern Illinois points involved are shown to be unreasonably high, or the rates from the Indiana mines are shown to be too low.

Page 16 of my Exhibit No. 29 shows the comparative average levels of the present and suspended rates from the Illinois and Indiana mines to the representative suspended points and of the present rates from such mines to the [fol. 1436] representative comparative points, as measured by the Midland scale. While the present rates from the Illinois mines to the representative suspended points average 80 per cent of that scale, the present rates from the Indiana mines average but 69 per cent and the suspended increased rates from the Indiana mines to such points average but 72 per cent or 11 and 8 percentage points lower than the present intrastate rates from the Illinois mines.

The present rates from the Illinois mines to the representative suspended points are the same percentage of the Midland scale, that is 80 per cent, as are the present rates from the Indiana mines to the representative comparative points, so that if the latter rates are used as a yardstick for measuring the present intrastate rates from the Illinois mines to the suspended points, no increase can be justified in such rates.

By Exam. Trezise:

Q. Mr. Rozene, your shortest tariff routes as you have described them are not the type of shortest tariff routes as indicated in the carriers' Exhibit 4, Section 3, where the statement is made, showing distances by shortest and longest of the short tariff routes?

A. They are not the same, no, sir.

Q. And your shortest tariff routes are as an average, as you have described them?

A. That is correct.

[fol. 1437] Q. And those averages are even higher than these so-called shortest tariff routes shown in Section 3 to this Exhibit 4?

A. Yes, sir, they are.

Q. Did you figure out what kind of distances these were in this Exhibit 4?

A. You are talking about the shortest tariff routes they show in there?

Q. Shortest, yes.

A. Yesterday, the question came up about the short rate making line and I believe those are the distances over the so-called short rate making line.

By Mr. Stadell:

Q. From each of the groups in Illinois, Indiana and Western Kentucky?

A. Yes.

Q. The exhibit you refer to is the railroads' Exhibit No. 4?

A. Yes.

Exam. Trezise: I was just wondering about that, because I casually sat down and picked the nearest point to Chicago, whether there was a mine or no mine, in the Southern Illinois Group, and I found it wasn't very far off from the distance that was shown in Exhibit 4. I don't know that that would be true in all respects, but I am just mentioning that so there may be no misunderstanding as to what that shortest tariff route is in comparison with your shortest tariff route.

The Witness: Mine are the average of the shortest tariff [fol. 1438] routes.

Exam. Trezise: Yours are the average, all right.

By Mr. Stadell:

Q. Why did you not include the comparative average level of the present and suspended rates from the Western Kentucky mines to the representative suspended points and of the present rates from such mines to the representative comparative points based upon the average shortest tariff route distances in the graphic charts contained in pages 15 and 16 of your Exhibit No. 29, in view of the fact that you show the average level of the present suspended rates to such points based upon the use of the average short tariff route distances in your previous graphic chart, Exhibit No. 26?

A. Because the tariff origin points and mines in the Western Kentucky group are with one or two exceptions served by but one railroad. Therefore, the average distances over the shortest tariff routes from that group to the representative suspended and representative comparative points are the same as the average distances over the short tariff routes from such group to such points. In order to avoid duplication, I have not shown the average shortest tariff route distances from the Western Kentucky group to such points in my Exhibits Nos. 27, 28 and 29, as they would be the same as the average short tariff route distances from that group to such points which are contained in the railroads' Exhibits Nos. 3 and 4 and in my Exhibit No. 23. For the same reason I have not shown the [fol. 1439] average levels of the present and suspended rates from the Western Kentucky group to the representative suspended points or the average levels of the present rates from that group to the representative comparative points, based upon the shortest tariff route distances in the graphic charts that are contained in pages 15 and 16 of my Exhibit No. 29, as that would be but a duplication of the information which is shown in my graphic chart, Exhibit No. 26, from the Western Kentucky group to such points, based upon the average short tariff route distances from such group to such points. As indicated by that exhibit, the average level of the present and suspended rates from the Western Kentucky mines to the representative suspended points and the average level of the present rates from such mines to the representative comparative points are considerably lower than the average level of the

present intrastate rates from the Illinois mines to the representative suspended Northern Illinois points.

(Exhibit No. 29, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Now, Mr. Rozene, earlier in your testimony you made reference to the fact that the average short tariff route distances from the Southern Illinois group to Belvidere, Illinois, is actually 17.4 miles longer than to Madison, Wisconsin, although Belvidere is located about 75 miles nearer the Southern Illinois group, geographically speaking, than Madison. Is Belvidere the only one of the repre- [fol. 1440] sentative suspended points to which these circuitous short tariff and shortest tariff routes apply from the Southern Illinois group, or do they apply in connection with the rates from that group to the other representative suspended Northern Illinois points?

A. Such circuitous short tariff and shortest tariff routes are in effect quite generally from the Southern Illinois group to the Northern Illinois points involved in these proceedings. They were established and are maintained for the convenience of the railroads which comprise them. We have no objection to the railroads hauling the coal from the mines of our member companies to these points over these circuitous routes if they desire to, but we strenuously object to our rates being measured by the inflated distances over such routes because, as I pointed out in connection with the situation at Belvidere versus Madison, this results in rates to Belvidere that are based on about 92.4 miles more transportation service than are the rates to Madison, notwithstanding the fact that, geographically speaking, Belvidere is so much closer to such mines than is Madison that its consumers should be entitled to rates from the Southern Illinois group that are based upon 75 miles less transportation service, at least, than the consumers of the same coal at Madison.

Q. Have you prepared an exhibit containing a series of maps upon which you have shown, by means of colored lines, the location of some of the present circuitous short [fol. 1441] tariff or shortest tariff routes from mines in the Southern Illinois group to some of the representative suspended points, and the reasonable and practicable short

tariff routes or shortest tariff routes which could be established from such mines to such points by the railroads.

A. I have prepared such an exhibit, and it has been marked Exhibit No. 30. This exhibit consists of 18 maps. On each of these maps I have shown, by means of a solid red line extending from the mines or origin points on the railroad indicated in the Southern Illinois group to one or more of the representative suspended, the location of the present circuitous short tariff or shortest tariff routes from such mines or origins to such points. I have also shown on each of such maps, by means of a combination red and blue line; the location of what are in our opinion the reasonable or practicable short tariff or shortest tariff routes between such mines or origins and the representative suspended points indicated on such map.

As illustrative, page 1 of this exhibit shows, by means of a solid red line, the present extremely circuitous short tariff route which is also the shortest tariff route, from mines in the Southern Illinois group located on the New York Central Railroad to Belvidere, Illinois. This route applies via the New York Central through Danville to Peoria, and thence via the Chicago and North Western from Peoria to Belvidere. The distance via this route from such mines to Belvidere is 521 miles. A reasonable [fol. 1442] and practicable short tariff route or shortest tariff route could be established from such mines to such points via the New York Central through Danville to Gibson, Indiana, thence Indiana Harbor Belt to Proviso Yard, and the Chicago and North Western, as indicated by the combination red, blue and red line on this map. As a matter of fact, at the present time the route for coal originating at mines in Indiana on the New York Central and destined to Belvidere and the other Northern Illinois points is via the New York Central, Indiana Harbor Belt to Proviso Yard, and thence Chicago and North Western, or the same route that we have suggested from the Southern Illinois group. The distance from the Southern Illinois mines on the New York Central to Belvidere over the practicable reasonable short tariff route shown on this map is 393 miles, or 128 miles less than the distance of 521 miles over the present circuitous short tariff route from such mines to such point.

The map on page 2 of my Exhibit No. 30, shows, by means of the solid red line, the present short and shortest tariff

route from mines on the New York Central in the Southern Illinois group to Freeport, Polo, Dixon, and Amboy, Illinois. This route applies via the New York Central through Danville and Bloomington, thence via the Illinois Central from Bloomington to the four representative suspended points named. A reasonable and practicable short tariff [fol. 1443] route from these mines to such points could be established via the New York Central to Grayville, Illinois, thence the Illinois Central, as indicated by the combination red, blue and red line shown on this map. The distance via the present route is 41 miles greater to each of the four destinations named than over the reasonable and practicable short tariff route which I have indicated, or a total excess distance of 164 miles from such mines to these four representative suspended points.

On the map, page 3 of such exhibit, I have shown, by means of the solid red line, the present short, which is also the shortest, tariff route from mines on the New York Central to Byron, Illinois, and from such mines to Rochelle, Illinois, and by means of the combination red, blue and red line, the reasonable and practicable short tariff or shortest route from such mines to such points.

The present short tariff route from such mines to Byron applies via the New York Central and Danville to Chicago, thence Chicago Great Western, and the present short tariff route from such mines to Rochelle applies over the New York Central, via Danville and Ladd, thence Chicago, Milwaukee, St. Paul and Pacific Railroad. A reasonable and practicable short tariff route which could be established from such mines to both Rochelle and Byron would be via the New York Central to Grayville, thence Illinois Central to Mendota, thence Chicago, Milwaukee, St. Paul and Pacific. [fol. 1444] The reasonable and practicable short tariff route to Byron is 48.7 miles less and to Rochelle 88.4 miles less than the present short tariff route from such mines to such destinations.

The map on page 4 of this exhibit shows, by means of the solid red line, the present circuitous short tariff route from mines in the Southern Illinois group on the New York Central to Sterling, Illinois, and by means of the red, blue and red line, the reasonable and practicable short tariff route from such mines to such points. The mileage over the reasonable and practicable route from such mines to such

points is 347.3 miles and over the present short tariff route, 404.5 miles, or 57.2 miles longer.

Page 5 of this exhibit shows the present short tariff and shortest tariff route from mines on the Chicago & Eastern Illinois Railroad in the Southern Illinois group to Dixon, Freeport, Forreston, Polo, and Amboy, Illinois, five of the representative suspended Northern Illinois points. I have also shown, by means of the red, blue and red line, the reasonable and practicable short tariff route from such mines to such points. Sixteen miles of transportation service from such mines to each of these five representative points would be saved if the reasonable short tariff route indicated by the red, blue and red line, were established in place of the short tariff route now applicable.

It is important to note that prior to July 31, 1942, the [fol. 1445] Chicago & Eastern Illinois Railroad maintained the route from the mines on its line in the Southern Illinois group to these representative suspended points named, which is indicated by the red, blue and red line, instead of the present longer route indicated by the solid red line, but on that date the shorter and more reasonable route was cancelled and the new longer route via Pana now in effect, was established, thus increasing the distance from the Southern Illinois mines served by the Chicago & Eastern Illinois to these five representative suspended points 16 miles each, or a total of 90 miles.

The Coal Traffic Representative of the Chicago & Eastern Illinois Railroad advised me that this change in routes was published through error, but that as some work would be involved in changing the route back to apply over that indicated by the red, blue and red line on this map, that they proposed to leave the present longer route in effect, which because of its longer distance obviously aids them in their present plea for increased rates from the Southern Illinois mines to such important points.

Mr. McElroy: Right at that point, was that route changed after these rates were suspended by the Illinois Commerce Commission, or before?

The Witness: It was changed on July 31st, 1942.

Mr. McElroy: That would be before the suspension?

The Witness: I believe it would, yes.

[fol. 1446] Mr. Stadell: In anticipation.

Mr. McElroy: All I had in mind, the carriers were not permitted to make any change in tariff routes while the

rates were in suspension. So they secured permission from the Illinois Commerce Commission to do that. Go ahead.

The Witness: A casual glance at the map on page 5 of this exhibit clearly shows that the present route of the Chicago & Eastern Illinois requires a back haul from Findlay Junction, approximately one half way between Sullivan and Shelbyville, back to Pana, Illinois. While the excess distance of 16 miles involved in the present route over the suggested route, which as I stated was in effect prior to July 31, 1942, from the Southern Illinois mines, on the Chicago & Eastern Illinois to the five representative suspended points named would not appear to be material, yet it must be remembered that to these five points this results in a total excess distance of 90 miles, which results in materially inflating the average distance to the suspended Northern Illinois territory as a whole. A difference in distance of 16 miles also generally results in causing the rates to be increased by one or more mileage blocks when they are measured by or based upon any scale, such as the Midland, Holmes and Hallowell, or 23922 scales, and such a substantial increase in the rates from the Southern Illinois mines is of the utmost importance, as it inevitably throws such rates out of proper relation to the rates from the mines [fol. 1447] in Indiana.

On the map, page 6 of my Exhibit No. 30, the solid red line shows the present circuitous short tariff route from mines in the Southern Illinois group served by the Chicago & Eastern Illinois Railroad to Sterling, Illinois, and the combination red and blue line shows the location of the reasonable and practicable short tariff route which should be established from such mines to such points.

The present short tariff route applies via Chicago & Eastern Illinois, Chicago Heights, Illinois, Elgin, Joliet & Eastern, West Chicago, and Chicago & North Western. The reasonable and practicable route indicated by the red and blue line, applies via Chicago & Eastern Illinois, Altamont, Baltimore and Ohio to Bando, thence Chicago & North Western. The reasonable and practicable short tariff route which I have indicated was published as a tariff route from mines in the Southern Illinois group served by the Chicago & Eastern Illinois to Sterling until June 8, 1942, when it was cancelled and the present circuitous short tariff route, indicated by the solid red line was established. The distance over the present short tariff route from such mines

to Sterling is 415 miles, and over the former short tariff route, which I have indicated as the reasonable and practicable short tariff route, is 315 miles, 100 miles shorter. This is but another illustration of how the average distance [fol. 1448] over the short tariff and shortest tariff routes from the Southern Illinois mines to the Northern Illinois points involved in these proceedings have been grossly inflated by the establishment by the petitioning and respondent railroads of the circuitous short tariff and shortest tariff routes which are now in effect.

On the map, page 7 of my Exhibit No. 30, the solid red line shows the present short tariff route from mines on the Chicago & Eastern Illinois in the Southern Illinois group to Rochelle, Illinois, and the red and blue line shows the location of the reasonable and practicable short tariff route from such mines to such points. The distance over the present short tariff route is 381 miles, and over the reasonable and practicable short tariff route, 306.8 miles or 74.2 miles less.

By Mr. Stadell:

Q. In this connection, could you tell us what proportion of the total commercial coal tonnage that was shipped from the Southern Illinois group in 1941, as illustrative, originated at mines served by the Chicago & Eastern Illinois?

A. But 1.4 per cent of the total commercial coal tonnage shipped from all mines in the Southern Illinois group to all destinations in 1941 originated on the Chicago & Eastern Illinois. The percentage of the total tonnage originated by that railroad in that group have been substantially the same during the past several years.

[fol. 1449] Q. Does the Chicago & Eastern Illinois Railway Company serve mines in Indiana?

A. Yes, as indicated by my Exhibit 22, it serves mines in Brazil-Clinton, Linton-Sullivan and Princeton-Ayrshire. In 1941, 219,388 tons of coal originated on that railroad in the Brazil-Clinton Group, or 12 per cent of the total commercial coal tonnage shipped from all mines in that group to all destinations. During the same year, 239,675 tons of coal originated on that railroad in the Linton-Sullivan Group, and this was but 5.63 per cent of the total commercial coal tonnage that was shipped from all mines in that group to all destinations, during that year. In the same year 800,229 tons of coal originated on the C & EI

at mines in the Princeton, Indiana, Group, and this was 16.17 per cent of the total commercial coal tonnage that was shipped from all mines in the Princeton Group to all destinations during 1941.

Therefore, there was a total of 1,259,292 tons of commercial coal that originated in the year 1941, as illustrative, at mines in Indiana served by the C & EI. In addition, of course, it participated in hauling additional tonnage of Indiana coal that originated at mines on other railroads during that year. The tonnage originated by the C & EI in Indiana in 1941 is almost ten times as great as originated on that road in the Southern Illinois Group.

Q. Will you now please take up page 8 of your Exhibit No. 30?

[fol. 1450] A. On page 8 of such exhibit, I have shown the location of the present short tariff route from origin points on the Baltimore and Ohio Railroad in the Southern Illinois group to Belvidere, Illinois, and by means of the red and blue line, the reasonable and practicable short tariff route from such origin points to such destination. The distance over the present short tariff route is 433.3 miles, and over the reasonable practicable short tariff route 372.9 miles, or 60.4 miles shorter.

On page 9 of this exhibit the solid red line shows the present short tariff route from origin points on the Baltimore and Ohio in the Southern Illinois group to Rockford and Freeport, Illinois, and the red and blue line shows the reasonable and practicable short tariff route from such origin points to such destinations. The present short tariff route to Rockford applies via Baltimore and Ohio, Bando, thence Chicago & North Western, while the reasonable practicable short tariff route applies via the Baltimore and Ohio to Pana, Illinois Central to Mendota, thence Chicago, Milwaukee, St. Paul and Pacific. The distance over the present short tariff route from such origins to Rockford is 458 miles, and over the reasonable practicable short tariff route indicated, 330.2 miles or 127.8 miles less.

To Freeport, the present short tariff route applies via Baltimore and Ohio, Bando, and Chicago and North Western, while the reasonable practicable short tariff route [fol. 1451] applies via the Baltimore and Ohio to Pana, thence Illinois Central. The distance via the present route from origins in the Southern Illinois group on the Baltimore

and Ohio to Freeport is 476 miles, while the distance over the reasonable practicable route is 339.5 miles or 136.5 miles less. It should not be overlooked that Rockford and Freeport are two of the most important destinations involved in these proceedings. The substantial inflation in the average distances from the Southern Illinois mines to such points caused by the computation of such distances over the present short tariff and shortest tariff routes make the present rates from such mines to such points appear to be much lower than they actually are when measured by the ton-mile earnings produced by such rates or by the percentage that such rates are of any scale and average distances computed over reasonably direct short tariff routes.

On the map, page 10 of my Exhibit No. 30, the solid red line shows the present short tariff route from origins on the Baltimore and Ohio in the Southern Illinois group to Byron, Illinois, and the red and blue line, the reasonable practicable short tariff route from such origins to such point. The zigzag out-of-line character of the present short tariff route is readily apparent from a glance at this exhibit. The distance over such route is 76½ miles greater than over the reasonable practicable short tariff route which I have indicated.

Q. At this point, could you tell us what percentage of the [fol. 1452] total commercial coal tonnage that is shipped from the Southern Illinois group to all destinations originates at origin points or mines in that group served by the Baltimore and Ohio?

A. For a number of years, there has been virtually no tonnage shipped from any mine or origin in the Southern Illinois group on the Baltimore and Ohio, as the mines in that group on that railroad have been abandoned. At the present time there is one very small mine located on that carrier in that group. However, substantially all of its tonnage is consumed locally or shipped by truck. Of the 10,745,573 tons of commercial coal which were shipped from the Southern Illinois group to all destinations in 1941, but 2,593 tons or .002 per cent of the total originated at mines served by the Baltimore and Ohio, and it is my understanding that none of this tonnage went to the territory involved in these proceedings, but was shipped to short haul points in Southern Illinois.

On the map, page 11 of my Exhibit No. 30, the solid red line shows the present circuitous short tariff route from mines or origins in the Southern Illinois group served by the Chicago, Burlington & Quincy to Polo, Illinois, and the red and two blue lines shows two reasonable practicable short tariff routes either of which could be established from such origins to such point.

The present route applies via the C. B. & Q. direct via Aurora, and involves a haul substantially out of line from [fol. 1453] Vermont to Aurora in a reverse direction from Polo, and a direct back haul from Aurora to Polo. The C. B. & Q. could handle this traffic via its line through Vermont and Savanna to Polo, as indicated by the red and blue line, through those points. The saving in distance over this route would be approximately 66 miles, as compared with the distance over the present circuitous short tariff route. A reasonable and practicable short tariff route could also be established, as indicated by the red and blue line, via the C. B. & Q., Centralia, thence Illinois Central. The distance over this latter route from origins on the C. B. & Q., in the Southern Illinois group to Polo would be 298.2 miles or 153.5 miles shorter than the 451.7 miles over the present short tariff route.

On page 12 of this exhibit the solid red line shows the present circuitous short tariff route from origins in the Southern Illinois group on the C. B. & Q., to Belvidere, Illinois, and the red and two blue lines shows two shorter and, in our opinion, more reasonable short tariff routes, either of which could be established from such origins to such destination. As will be noted from the solid red line, the present short tariff route involves a considerable haul away from Belvidere in an easterly direction from DeKalb to West Chicago, and thence a back haul from West Chicago to Belvidere. The C. B. & Q. maintains a short tariff route in connection with the present rates from origins on its line [fol. 1454] in the Southern Illinois group to DeKalb, Dixon and Sterling, three of the other representative suspended Northern Illinois points via its line from such origins to Virden, Illinois, thence Chicago and North Western. Virden, Illinois, is located just south of Springfield and Auburn, Illinois, at the junction of the red and blue line shown on this map, which has been marked by a circle. Obviously, if this short tariff route from such origins to DeKalb, Dixon and Sterling is reasonable and proper, the

same route would be proper to Belvidere. The route from C. B. & Q., Southern Illinois origins to Belvidere via that road to Virden, thence the Chicago and North Western, is 53 miles shorter than the distance over the present short tariff route from such origins to such points.

The more reasonable practicable short tariff route from these origins to Belvidere would be that applying via the red line and blue lines over the C. B. & Q. to Centralia, Illinois Central to Mendota, Chicago, Milwaukee, St. Paul and Pacific to Rockford, and Chicago and North Western. The distance over this route would be but 325.9 miles or 138 miles shorter than the distance of 463.9 miles over the present circuitous short tariff route.

On page 13 of my Exhibit No. 30, the solid red line shows the present short tariff route from C. B. & Q. origins in the Southern Illinois group to Rochelle. It will be noted that this route winds back and forth across the state of Illinois, [fol. 1455] first going in a westerly direction away from the Southern Illinois group, and Rochelle, thence in an easterly direction past Rochelle to Aurora, and requiring a back haul from Aurora to Rochelle.

Here again, I desire to direct attention to the fact that the C. B. & Q. maintains a short tariff route from the mines and origins in the Southern Illinois group to DeKalb, Dixon, and Sterling, in connection with the present rates via its line to Virden, thence Chicago and North Western, which route would also be much more reasonable and logical to Rochelle than its present short tariff route to that point. If the present tariff route from origins on the C. B. & Q. in the Southern Illinois group via Virden and the Chicago and North Western to DeKalb, Dixon, and Sterling is reasonable and proper, it would seem obvious that there are no reasons why such route would not also be reasonable and proper to Rochelle which is located between DeKalb and Dixon.

The distance via the present short tariff route of the C. B. & Q. to Rochelle is 423.6 miles or 105.5 miles longer than the distance of 318.8 miles via the suggested route of that road to Virden, thence Chicago and North Western. Another reasonable and practicable short tariff route from origins on the C. B. & Q. in the Southern Illinois group to Rochelle could also be established, as indicated by the red and blue line shown on page 13 of this exhibit, via the [fol. 1456] C. B. & Q. to Centralia, thence Illinois Central

to Mendota, and Chicago, Milwaukee, St. Paul and Pacific. The distance via this route would be but 285.1 miles or 138.5 miles shorter than the 423.6 miles over the present circuitous short tariff route.

On the map, page 14 of my Exhibit No. 30, the red line shows the present short tariff route from origins in the Southern Illinois group on the Chicago, Burlington & Quincy to Amboy, Forreston, Freeport, and Rockford, Illinois. To Amboy, such short tariff route applies via the C. B. & Q. direct, and involves a back haul from Mendota to Amboy. In our opinion a more reasonable short tariff route from such origins to Amboy would be that indicated by the red and blue line via the C. B. & Q. to Centralia, thence Illinois Central. The distance via the latter route is 84.3 miles shorter than via the present short tariff route.

To Forreston, the present short tariff route applies via the C. B. & Q. to Mendota, thence Chicago, Milwaukee, St. Paul and Pacific. A more reasonable short tariff route, in our opinion, is that which I have indicated on this exhibit by the red and blue line via the C. B. & Q. to Centralia, thence the Illinois Central. The distance over the latter route is 83.5 miles shorter than via the present short tariff route.

To Freeport, Illinois, the present short tariff route from origins on the C. B. & Q. also apply via that road to Mendota, thence Chicago, Milwaukee, St. Paul and Pacific. The rea- [fol. 1457] sonable practicable short tariff route indicated by the red and blue line applies via C. B. & Q. to Centralia, thence Illinois Central. The distance via the latter route is 108.5 miles shorter than via the present short tariff route.

As shown by the solid red line the present short tariff route to Rockford applies via the C. B. & Q. to Mendota, thence C. M. St. P. & P., while the reasonable and practicable short tariff route, which I have indicated by the red and blue line, applies via C. B. & Q. to Centralia, Illinois Central, Mendota, thence C. M. St. P. & P. The mileage over this latter route is but 311.2 miles or 75.4 miles shorter than the distance of 386.6 miles over the present short tariff route from origins on the C. B. & Q. in the Southern Illinois group to Rockford.

On page 15 of my Exhibit No. 30, the solid red line shows the present short tariff route from origins on the C. B. & Q. in the Southern Illinois group to Geneva, Illinois. The red

and two blue lines shows two shorter and in our opinion more reasonable short tariff routes which could be established from such origins to such point. The C. B. & Q. maintains a short tariff route in connection with the present rate from origins on its line to DeKalb, Dixon, and Sterling, via Virden and the C. & N. W. As previously stated, Virden is located just south of Springfield and Auburn at the junction between the red and blue lines shown on this map, which I have circled. If this short tariff route is reasonable [fol. 1458] and practicable in connection with the rates to DeKalb, Dixon, and Sterling, there is obviously no reason why it is not also reasonable and practicable to be applied in connection with the rates to Geneva.

The average distance over this latter route from origins on the C. B. & Q. in the Southern Illinois group to Geneva is 357.4 miles or 52.8 miles shorter than the average distance from such origins to such points over the present short tariff route. As indicated by the red and other blue line on page 15 of this exhibit, another shorter and more reasonable short tariff route than the present one could be established from such origins to Geneva via the C. B. & Q. to Centralia, Illinois Central to Matteson, E. J. & E. to West Chicago, thence C. & N. W. The distance over this route is 84.6 miles shorter than via the present short tariff route.

Q. Does the Chicago, Burlington & Quincy Railroad originate a substantial proportion of the total commercial coal tonnage that is shipped from the Southern Illinois group?

A. It used to, but not such a substantial proportion any more. In 1930 and 1931, as illustrative, which was about the time of the hearings in Docket No. 23130, the Chicago, Burlington & Quincy originated 42 per cent and 41 per cent, respectively, of the total commercial tonnage shipped from all mines in the Southern Illinois group to all destinations. This proportion, however, has declined substantially each year, so that in 1940, as illustrative, that carrier originated [fol. 1459] but 19 per cent of the total commercial tonnage shipped from the Southern Illinois group to all destinations.

Q. Has some of this proportion of the total tonnage been shifted to some other railroad?

A. Yes. For example, in 1930 the Illinois Central originated but 19 per cent of the total commercial tonnage shipped from the Southern Illinois group to all destinations. In 1931 it originated 25 per cent, and in 1940, 37 per cent.

Q. Now, proceed with the explanation of pages 16, 17 and 18 of your Exhibit No. 30.

A. The red line on the map, page 16 of this exhibit, shows the present short tariff route from origins on the Louisville and Nashville Railroad in the Southern Illinois group to Belvidere and DeKalb, Illinois, namely, via that road to Ashley, Illinois Central to South Pekin, and Chicago and North Western. The distance to Belvidere via this route is 453.7 miles and to DeKalb 377.2 miles. A shorter and in our opinion more reasonable short tariff route could be established to Belvidere, as indicated by the red line, to Mt. Vernon, the blue line through Chicago Heights and West Chicago, thence the red line to Belvidere. This route is via Louisville and Nashville to Mt. Vernon, Chicago & Eastern Illinois to Chicago Heights, E. J. & E. to West Chicago, thence Chicago and North Western. The distance via this route is 50.2 miles less than via the present short tariff route.

[fol. 1460] A still shorter and, in our opinion, more reasonable short tariff route could be established, as indicated by the red and blue line, via Louisville and Nashville to Ashley, Illinois Central to Mendota, C. M. St. P. and P. to Rockford, thence C. and N. W., such route being 90.9 miles shorter than the present route from the Louisville and Nashville origins to such point. To DeKalb, Illinois, a shorter and more reasonable route, in our opinion, could be established via Louisville and Nashville to Ashley, Illinois Central to LaSalle, L. S. & B. C., LaSalle Junction, and Chicago and North Western. This route is 46.6 miles shorter than the present short tariff route from Louisville and Nashville origins in the Southern Illinois group to DeKalb.

Q. What proportion of the total coal tonnage shipped from the Southern Illinois group originates on the Louisville and Nashville?

A. None. As a matter of fact, there has been no coal produced at or shipped from any origin point in the Southern Illinois group served by that railroad since about 1927. However, that railroad has not eliminated such origin points from its tariff and the railroads therefore continue to use the mileages over the circuitous short tariff routes from such origin points in computing their average short tariff route mileages from the Southern Illinois group in every case involving the rates from that group.

[fol. 1461] Q. Now, take up page 17 of your Exhibit No. 30.

A. The solid red line on page 17 shows the present short tariff route from origins in the Southern Illinois group on the Missouri Pacific Railroad to Belvidere, DeKalb, and Rochelle, Illinois, namely, via that road to East St. Louis, Litchfield & Madison Railroad to Benld, Illinois, thence Chicago and North Western. A shorter and, in our opinion, more reasonable short tariff route could be established from such origins to such points, as indicated by the red and blue line. To Belvidere this route would be via Missouri Pacific, Herrin, Illinois Central, Mendota, C. M. St. P. and P. to Rockford, thence Chicago and North Western, and the mileage over such route would be 117.4 miles less than via the present route. To DeKalb the suggested reasonable route is via Missouri Pacific, Herrin, Illinois Central, LaSalle, L. S. & B. C., LaSalle Junction, thence Chicago and North Western, and to Rochelle it is via the Missouri Pacific, Herrin, Illinois Central, Mendota, Chicago, Milwaukee, St. Paul and Pacific, these two routes being 73.4 miles and 65.5 miles respectively, shorter than the present short tariff route from such origins to DeKalb and Rochelle.

The solid red line on page 18 of this exhibit shows the present short tariff route from Missouri Pacific origins in the Southern Illinois group to Rockford, namely, via Missouri Pacific, Herrin, and Illinois Central. A more rea-
[fol. 1462] sonable short tariff route, in our opinion, would be that indicated via the red and blue line, namely, Missouri Pacific, Herrin, Illinois Central, Mendota, and C. M. St. P. and P., this route being 37 miles shorter than the present route.

It should be noted that while in connection with the route shown on page 18 from origins on the Missouri Pacific in the Southern Illinois group to Rockford, the Missouri Pacific interchanges its coal traffic from such origins to such point with the Illinois Central at Herrin, it does not interchange the coal traffic originating at the same origins and destined to Belvidere, DeKalb, and Rochelle, Illinois, with the Illinois Central at Herrin, but instead hauls it in a southwesterly direction away from such origins and such destinations, thence via roundabout route up through East St. Louis where it interchanges it with the Litchfield &

Madison to move to Benld, thence C. & N. W. It would seem obvious that if the Missouri Pacific considers it reasonable to interchange the Rockford shipments from such origins with the Illinois Central at Herrin, it would likewise be reasonable to interchange the Belvidere, De Kalb, and Rochelle shipments from the same origins with that railroad at Herrin, as we suggest in connection with the reasonable short tariff route that should be established from such origins to such points.

Q. Does the showing which you have made include all of the circuitous, or what you consider to be circuitous [fol. 1463] short tariff and shortest tariff routes from the Southern Illinois group to the representative suspended points, or are there others in addition to those which you have shown on the series of maps in your Exhibit No. 30?

A. No, in the interest of conserving time, I have not shown all of them. The ones which I have shown on the maps contained in my Exhibit No. 30 are merely illustrative of others which apply in connection with the present rates from the Southern Illinois group to such representative suspended Northern Illinois points.

(Exhibit No. 30, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Do the existence of the present circuitous short tariff and shortest tariff routes from the Southern Illinois mines to such representative Northern Illinois points and the use of the distances over those routes result in materially longer average distances from that group to such points than would result by the use of the distances over the reasonable short tariff or shortest tariff routes which you have suggested?

A. Yes. The average mileages over the short tariff or shortest tariff routes from the Southern Illinois group to the representative suspended Northern Illinois points and to other points in the same vicinity in Northern Illinois would be very materially reduced if they were computed over reasonably direct short tariff or shortest tariff routes, such as I have suggested.

[fol. 1464] Q. Have you made any computations to determine how much the average mileages from the Southern Illinois group to any of such points would be reduced if they were computed over reasonably direct short tariff

routes, such as you have suggested, instead of via the present circuitous short tariff and shortest tariff routes. If so, will you please give us the results of your computations?

A. Yes. If the average mileages from the Southern Illinois group to the representative suspended points were computed over reasonable and logical short tariff routes from that group to such points such as I have suggested, instead of over the present circuitous short tariff routes which have been used by the railroads in their Exhibits Nos. 3 and 4, the average short tariff route mileages shown in their exhibits from such group to such points would be reduced by the following amounts: To Amboy, 23 miles; Belvidere, 87 miles; Byron, 18 miles; DeKalb, 35 miles; Dixon, 7 miles; Forreston, 21 miles; Freeport, 31 miles; Geneva, 49 miles; Polo, 33 miles; Rochelle, 59 miles; Rockford, 45 miles; and Sterling; 22 miles.

It is therefore apparent that the use of the much shorter average mileages over the suggested reasonable and practicable short tariff routes would result in the ton-mile earnings produced by the present rates from that group to such points being considerably higher and in such rates being a considerably higher percentage of the Midland [fol. 1465] Electric, 23922, and other scales than are reflected by such rates when measured by the greater average mileages over the circuitous short tariff or shortest tariff routes which are used by the railroads in their Exhibits Nos. 3 and 4 and in my Exhibits Nos. 23 and 29.

Exam. Trezise: We will have a few minutes recess.

(A recess was taken.)

Exam. Trezise: All right, gentlemen, when you are ready we will begin. Proceed.

By Mr. Stadell:

Q. Earlier in your testimony you stated that, in your opinion, the present interstate rates from the Illinois mines to the comparative points in Southern Wisconsin are on an improper basis, and that such rates therefore do not provide a proper yardstick to be used in measuring the lawfulness of the suspended rates from the Illinois mines to the Northern Illinois points involved in these proceedings. What did you mean by that statement?

A. On September 10, 1924, the rates from the Southern Illinois group to the representative comparative points in Southern Wisconsin, as well as to other points in that state, were increased from 23 to 34 cents per ton by the railroads in purported compliance with the Interstate Commerce Commission's order in the Lake Dock Coal Cases, 89 ICC 170. The order in that case was based upon a finding that the interstate rates from the Southern Illinois group to such points in relation to the intrastate rates from coal [fol. 1466] docks on Lake Michigan and Lake Superior in Wisconsin to such points, resulted in undue prefereace of the Southern Illinois mines and undue prejudice to such docks, in violation of Section 3 of the Act. Such order required the alleged undue prejudice and preference to be removed by the establishment of certain increased differences between the interstate rates from the Southern Illinois group, on the one hand, and the intrastate rates from such Wisconsin docks, on the other, and the railroads complied with such order, by accepting the existing intrastate rates as proper and increasing the Southern Illinois rates to such points by the amounts which I previously mentioned, for the purpose of establishing the required differences between the rates from that group, on the one hand, and such docks on the other. For example, to Madison, Wisconsin, the rate from the Southern Illinois group prior to compliance with such order, or on September 9, 1924, was $2.52 per ton, or 94 cents per ton higher than the intrastate rate of $1.58 then in effect from the Wisconsin Lake Michigan docks to such point. On September 10, 1924, this difference was increased to $1.17, by increasing the rate from the Southern Illinois group from $2.52 to $2.75, or 23 cents per ton.

It is our position that the order in such case was invalid, as the Commission did not have and has never had any authority to pass upon or to require the removal of alleged undue prejudice to intrastate commerce or shippers, and [fol. 1467] undue preference of interstate commerce and shippers, caused by the relation of interstate versus intrastate rates, and it has so held in innumerable cases since its decision in the Lake Dock Coal Cases. As a matter of fact, its order in the Lake Dock Coal Cases was vacated and set aside, upon our petition, on October 3, 1939, in Northwestern Coal Dock Operators Association versus Chicago and Alton Railroad Company, 234 ICC 679. Notwithstand-

ing the fact, however, that the rates from the Southern Illinois group to points in Wisconsin, including the representative comparative points in that state should never have been increased because of the invalid character of the Commission's order in the Lake Dock Coal Cases, and although the Commission has vacated and set aside such order, the railroads have refused to reduce the present rates from the Southern Illinois group to such points by the amounts that they increased them, in purported compliance with such order.

In addition, very substantial reductions have been made since the decision in that case, in the rates on coal from the docks on Lake Michigan and Lake Superior in Wisconsin to destinations throughout that state by virtue of an order of the Wisconsin Public Service Commission in its Docket 2-R-633. These reductions became effective May 1, 1939. To Janesville and Beloit, as illustrative, the rates from the Lake Michigan Wisconsin docks were reduced on May 1, 1939, 38 cents per ton on large coal, and 53 cents per ton on [fol. 1468] fine coal, and to Madison, 28 cents per ton on large coal and 43 cents per ton on fine coal.

The maintenance of the present rates from the Southern Illinois group to points in Wisconsin, including the representative comparative points, which include the substantial increases that were made in purported compliance with the order in the Lake Dock Coal Cases, and the large reductions which have been made since the decision in that case in the rates from the Lake Michigan and Lake Superior Wisconsin docks to such points, have very substantially increased the spread or difference between the rates from the Southern Illinois group, on the one hand, and such docks on the other, so that they are much greater at the present time than those which were in effect prior to the Lake Dock Coal Cases, or which were established in purported compliance with the Commission's order in that case.

Q. Were you present at the prior hearings herein when Mr. Wilkinson asked Mr. Flansburg, on cross examination, whether the rates from the Indiana mines to points in Wisconsin were increased on September 10, 1924, by the same amounts as were the rates from the Southern Illinois group, thus preserving the differences between such rates, and did you hear Mr. Flansburg's reply that he was not sure but he thought they were?

A. Yes, I heard such question and answer. However, Mr. [fol. 1469] Flansburg was incorrect. I have made a thorough check into this matter, and the rates from the Indiana mines to points in Wisconsin, including the comparative points used in these proceedings, were not increased by the same amounts as were the Southern Illinois rates on September 10, 1924. As a matter of fact, no increases were made in the rates from the Indiana mines to such points until July 19, 1925, and then the increases were not as great as were made in the rates from the Southern Illinois group on September 10, 1924.

As illustrative, while the rate from the Southern Illinois group to Beloit was increased 23 cents per ton on September 10, 1924, the rates from the Indiana groups to such point were not increased until July 19, 1925, and were then only increased by the following amounts: Linton-Sullivan, 9 cents; Brazil-Clinton, 12 cents; Princeton, 7 cents; Boonville 6 cents.

On September 10, 1924, the rates from the Southern Illinois group to Janesville and Madison were increased 23 cents per ton, while on July 19, 1925, the rates from the Indiana groups to Janesville were increased 19 cents per ton from the Linton-Sullivan group, 22 cents per ton from the Brazil-Clinton group, 17 cents per ton from the Princeton group, and nothing from the Boonville group. To Madison, the rates from the Indiana groups were increased on that date 16 cents per ton from the Linton-Sullivan group, 18 cents from the Brazil-Clinton group, but 14 cents from the Princeton group, and no increase was made in the [fol. 1470] rate from the Boonville group to such point.

On September 10, 1924, the rate from the Southern Illinois group to Watertown, Wisconsin, was increased 24 cents and on July 19, 1925, the Linton-Sullivan rate was increased but 19 cents per ton, the Brazil-Clinton rate was increased 22 cents per ton, the rate from Princeton was increased but 17 cents per ton, and the rate from Boonville to such point was actually reduced 9 cents per ton.

Mr. Cardy: Mr. Examiner, I don't see what this adjustment in Wisconsin has to do with the issues involved here, in other words, as compared to what they did in Wisconsin.

Mr. Stadell: It has a lot to do with it before we get through, Mr. Cardy, if you will just permit us to go ahead.

Mr. Cardy: Well, I would just like to know. I don't like to interrupt you.

Exam. Trezise: Go ahead.

Mr. Cardy: All right.

The Witness: These substantially smaller increases, and in some cases reductions which were made in the rates from the Indiana groups, than the increases which were made in the rates from the Southern Illinois group to points in Wisconsin, resulted in changing the differences between the rates from the Southern Illinois group, on the one hand, and such Indiana groups, on the other, which were in effect prior to September 10, 1924, to the substantial disadvantage [fol. 1471] of the Southern Illinois mines and to the advantage of the Indiana mines. The different increases which were made in the various rates from the Indiana groups on July 19, 1925, also changed the differences which existed between the rates from such groups to points in Wisconsin prior to that date.

By Mr. Stadell:

Q. Now have you prepared an exhibit showing the rates which were in effect from the Southern Illinois group, on the one hand, and the Wisconsin Lake docks on the other, to points in Wisconsin, including the comparative Wisconsin points, on September 9, 1924, and the rates in effect at the present time, and the differences between the rates in effect on September 9, 1924, and at the present time from such docks, on the one hand, and the Southern Illinois group, on the other?

A. Yes, this information is contained in my Exhibit No. 31.

In column B of this exhibit I have shown the names of 18 representative points in Wisconsin, including Beloit, Burlington, Ft. Atkinson, Janesville, Lake Mills, and Madison, these latter 6 points being those used as comparative points by the railroads in these proceedings. In column D, I have shown the rates in effect on large and fine coal from the Southern Illinois group on September 9, 1924, which was the day preceding the increases in the rates from that group to such points, in purported compliance with the order in the Lake Dock Coal Cases. Column E shows the rates in effect from the Southern Illinois group to Wisconsin points on May 25, 1943, and at the present time, the date of May 25th being shown because that was when [fol. 1472] this exhibit was prepared for presentation in these proceedings. Column F shows the rates in effect from

the Wisconsin docks on September 9, 1924, and column G shows the present rates on large and fine coal from such docks to the Wisconsin points named. Column H shows the differences between the rates from such docks, on the one hand, and the Southern Illinois group, on the other, to such Wisconsin points, on September 9, 1924, and column I shows the substantially increased differences which are in effect at the present time. Column J of this exhibit shows what the present rates from the Southern Illinois group to each of the Wisconsin points shown would be if based upon the same difference over the present rates from the Wisconsin docks to such points, as existed between the rates from that group, on the one hand, and such docks, on the other, on September 9, 1924, or immediately prior to the increases in the rates from the Southern Illinois group, in purported compliance with the Lake Dock Coal Cases order.

It will be noted that the rates shown in column J from the Southern Illinois group are very substantially lower than are the present rates from such group to the Wisconsin points named. Even if the present rates from the Southern Illinois group to such Wisconsin points were made to reflect the same difference over the present rates from the Wisconsin docks to such points as were established by virtue of the order in the Lake Dock Coal Cases, they [fol. 1473] would be substantially lower than the present rates from such groups to such points because of the large reductions which were made in the rates from such docks to such points by virtue of the order of the Wisconsin Commission on May 1, 1939.

As illustrative, in the Lake Dock Coal Cases, the Commission prescribed a difference of 1.17 per ton between the rates from the Southern Illinois group on the one hand, and such docks on the other, to Janesville, Madison, and certain other Southern Wisconsin points. This difference added to the present large coal rate of $1.37½ and the present fine coal rate of $1.22½ from such docks to Madison would produce rates of $2.54½ on large coal and $2.39½ on fine coal from the Southern Illinois group to Madison, in lieu of the present rate of $2.90 on both sizes, and rates of $2.44½ and $2.30½ on large and fine coal from the Southern Illinois group to Janesville, in lieu of the present rate on both sizes of $2.79 per ton.

Q. Can you give us the differences which were prescribed by the Commission in the Lake Dock Coal Cases between the rates from the Southern Illinois group, on the one hand, and the Wisconsin docks, on the other, to some of the other important Wisconsin points shown on your Exhibit No. 31, which differences were made effective by the railroads in purported compliance with the decision in that case on September 10, 1924?

[fol. 1474] A. Yes. I have already mentioned the differences prescribed in that case between the rates from the Southern Illinois group, on the one hand, and such docks, on the other, to Janesville and Madison, and what the present rates from the Southern Illinois group would be if based upon those prescribed differences over the present rates from such docks to such points.

In the Lake Dock Coal Cases the Commission prescribed the following differences between the rates from the Southern Illinois group, on the one hand, and the Wisconsin docks, on the other, to the Wisconsin points which I will name, and these differences were made effective by the railroads on September 10, 1924, by increasing the rates from the Southern Illinois group by the amounts required to establish such differences over the then existing rates from such docks to such points: To Beloit, $1.17 per ton; to Burlington, $1.65 per ton; to Dodgeville, 86 cents per ton; to Fort Atkinson, $1.40 per ton; to Janesville, $1.17 per ton; to LaCrosse, $1.06 per ton; to Lake Mills, $1.24 per ton; to Madison, $1.17 per ton; and to Monroe, $1.01 per ton. All of these points are located in the Southern portion of Wisconsin and most of them have been used by the railroads as representative comparative points in these proceedings.

As will be noted by reference to my Exhibit No. 31, if the present rates from the Southern Illinois group to these Wisconsin points were made by adding these prescribed [fol. 1475] differences to the present rates from the Wisconsin docks to such points, they would all be substantially lower than they are.

(Exhibit No. 31, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Have you prepared an exhibit showing what the levels of the rates from the various Illinois groups to the representative comparative Wisconsin points would be, basing

the rates from the Southern Illinois group on the same difference over the present rates from the Lake Michigan Wisconsin docks to such points, as existed between such rates on September 9, 1924, and basing the rates from the other Illinois groups on the present difference or differentials under such constructed rates from the Southern Illinois group?

A. Yes. This exhibit has been marked No. 32.

Taking page 1 of such exhibit, as illustrative, I have shown in column D what the rates from the Southern Illinois group to Beloit, Wisconsin, would be if based upon the same difference, namely, 94 cents per ton, over the present rates from the Lake Michigan docks to such points as existed between the rates from the Southern Illinois group, on the one hand, and such docks, on the other, to that point on September 9, 1924, that is, on the day before the Southern Illinois rates were increased, in purported compliance with the order of the Commission in the Lake Dock Coal Cases. This rate from the Southern Illinois group to Beloit, and the rates from that group to the [fol. 1476] other representative comparative Wisconsin points shown in the subsequent pages of this exhibit, are the same as those shown from that group to such points in my preceding Exhibit No. 31. The rates from that group to such points in both of these exhibits were constructed in the manner just described.

On page 1 in column D of my Exhibit No. 32, I have also shown what the rates from each of the other Illinois groups to Beloit would be if made the same difference over the constructed rate from the Southern Illinois group, as exists at the present time between the rates from that group, on the one hand, and such other Illinois groups, on the other, to such point.

Column E shows the average short tariff route mileages, computed by the railroads in the present proceedings, from each of such groups to such points, and columns F, H and J show the levels of these rates from each of the Illinois groups to Beloit as measured by the ton-mile earnings produced by such rates and by the percentage that they are of the Midland and 23922 scales.

The same character of information is shown on pages 2 to 6 of this exhibit from such Illinois groups to Burlington, Fort Atkinson, Janesville, Lake Mills, and Madison, the other five representative comparative Wisconsin points

used by the railroads in their rate and mileage exhibits in these proceedings.

Exam. Trezise: And when you say short tariff route [fol. 1477] there, you mean the short tariff route that was shown by the railroads?

The Witness: Yes, sir.

Mr. Stadell: In their Exhibits Nos. 3 and 4 in these proceedings?

The Witness: Yes, sir.

(Exhibit No. 32, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Now, have you prepared an exhibit showing what the average level of the rates from the Illinois groups or mines as a whole to all of the 14 representative comparative points would be if the rates from such groups to the six representative comparative Wisconsin points constructed as shown in your Exhibit No. 32, are used, in lieu of the present rates from such groups to such points, and if the present rates from such groups to the balance of such comparative points in Northern Illinois and Iowa are used?

A. Yes. This exhibit has been marked as No. 33. It is a recapitulation of the information shown in my preceding Exhibit No. 32, with respect to the average short tariff route mileages and the constructed rates from the Illinois groups to the six representative comparative Wisconsin points, and of the information shown with respect to the present rates and average short tariff route mileages to the other representative comparative points in Northern Illinois and Iowa.

[fol. 1478] This exhibit shows that, based upon the average short tariff route mileages, the present rates from the Illinois groups and mines as a whole to the representative comparative Northern Illinois and Iowa points and the constructed rates from such groups and mines to the six comparative Southern Wisconsin points, produce average earnings of 8.3 mills per ton mile and average 76 per cent of the Midland scale, and 89 per cent of the 23922 scale.

It is our position that the constructed rates from the Illinois groups shown in my preceding Exhibit No. 32 to the comparative Southern Wisconsin points named, in conjunction with the present rates from such groups to the other

comparative points in Illinois and Iowa, comprise a much more reasonable and proper yardstick to use in measuring the lawfulness of the present or suspended rates from such Illinois groups to the Northern Illinois points involved in these proceedings than do the present rates from such groups to the comparative Northern Illinois and Iowa points and the present improper rates from such groups to the comparative Wisconsin points.

As indicated by my Exhibit No. 33, the present rates from the Illinois groups to the representative comparative Northern Illinois and Iowa points and the constructed rates from such groups to the representative comparative Southern Wisconsin points, average 76 per cent of the Midland scale and 89 per cent of the 23922 scale, as compared with the [fol. 1479] present rates from such groups to the representative suspended Illinois points, which average 79 per cent of the Midland scale and 90 per cent of the 23922 scale, and the suspended rates from such groups to such points, which average 82 per cent of the Midland scale and 93 per cent of the 23922 scale, as shown on page 1 of my Exhibit No. 24.

To further demonstrate that the present rates from the Illinois groups to the representative comparative Wisconsin points are unreasonably high, I wish to point out that in its very recent decision in the Fairbanks-Morse Case, the Commission found that the rates from such groups to Janesville and Fort Atkinson, two of such representative points, were unreasonably high and it required them to be reduced. While the reductions prescribed by it in such rates did not place them upon a proper level in relation to the substantial reduced rates from the Wisconsin lake docks, it did result in reducing the rates to such points substantially below the level of the present rates from the Illinois groups to the other representative comparative Wisconsin points, which are being used by the railroads in these proceedings to justify the proposed increased rates to the Northern Illinois points involved.

In its decision in the Fairbanks-Morse Case, the Commission used the Fulton-Peoria group as the base group in arriving at its prescribed rates from the Illinois groups to Fort Atkinson and Janesville, Wisconsin. The prescribed rates [fol. 1480] from the other Illinois groups to such points were made the same difference over the prescribed reduced rates from the Fulton Peoria group as were the then existing

rates from such groups to such points over the existing rates from the Fulton-Peoria group.

The prescribed rate from the Fulton-Peoria group to Fort Atkinson, as shown on page 22 of my Exhibit No. 23, is 77 per cent of the Midland scale, and as shown on page 23 of such exhibit, the prescribed rate from that group to Janesville is 91 per cent of such scale. The prescribed rates from such group to both points therefore average 84 per cent of such scale. If the rate from the Fulton-Peoria group to Madison were made 84 per cent of the Midland scale, it would be $2.04 per ton instead of $2.29 per ton, as at present, and if the rate from the Southern Illinois group to Madison were made by adding the present difference between the rates from the Fulton-Peoria group, on the one hand, and the Southern Illinois group, on the other, to the reduced rate from the Fulton-Peoria group to Madison, it would be $2.65 per ton instead of $2.90 per ton as at present. If the rate from the Fulton-Peoria group to Burlington were made 84 per cent of the Midland scale it would be $1.94 per ton instead of $2.33 per ton as at present, or a reduction of 39 cents per ton. Corresponding reductions in the rates from the other Illinois groups to Burlington would result by maintenance of the present difference over the reduced [fol. 1481] reasonable rate from the Fulton-Peoria group to such point.

Had the reasonableness of the present rates from the Fulton-Peoria and other Illinois groups to Madison, Burlington, and the other comparative Wisconsin points been before the Commission in the Fairbanks-Morse Case, it would seem obvious that such rates would also have been reduced to the same level, as were the rates from such groups to Fort Atkinson and Janesville.

Such reductions in the present rates from the Illinois groups to such other comparative Wisconsin points would have made the level of such rates much lower than are the present rates from such groups to such points and the level of such rates would have been much more nearly equal to the level of the present rates from such groups to the Northern Illinois points involved in these proceedings than is the level of the present unreasonable rates from such groups to such comparative Wisconsin points.

Mr. McElroy: Right at that point, may I interrupt, and ask if the level of the rates from Southern Illinois to these

points you refer to, Fort Atkinson, is lower than the level of the rates from Southern Illinois to Madison and Janesville?

The Witness: Yes, sir, they are.

Mr. McElroy: That is your point?

The Witness: Yes, sir.

By Mr. Stadell:

Q. Isn't it true, as shown by your exhibits, that the dis- [fol. 1482] tance from the Southern Illinois group to Madison, Wisconsin, is shorter than to Janesville, but that the present rate to Madison is about 11 cents a ton higher than to Janesville?

A. Well, the distance to Madison is 423 miles from Southern Illinois, and to Janesville is 406, a difference of 17 miles, and the rate is 11 cents higher. In other words, the distance to Madison is 17 miles greater and the rate is 11 cents greater.

Q. What average mileage are you using?

A. I am using the shortest tariff route mileage.

Q. That isn't the point I had in mind. We will check it up and make the record clear on that. Now, referring to your Exhibit No. 33, there are two blank spaces in the heading in which exhibit numbers should be filled in. What are those exhibit numbers?

A. The first one should be 32 and the other one should be 23.

Q. In the last column on Exhibit 33 you show a total per cent of the 23922 scale rates, and in connection with the figure 23922 you have a reference mark 1; what does that mean?

A. Well, that indicates a sub number to the original case in 23922.

Q. In other words, there were two cases there and one of them was Docket 23922 and the other was Sub No. 1?

A. That is right.

Q. Referring back a moment to page 1 of your Exhibit [fol. 1483] 32, Mr. Rozene, on the bottom of that exhibit there is a space for an exhibit number to be filled in. Can you give us that?

A. That should be Exhibit 31. On Exhibit 33, please, the last number at the bottom should be 24 instead of 23, as I stated.

I want to make an explanation here of Exhibit 32, page 1. As to the mileage shown in column E, the short tariff route mileage, you will note that some of these mileages run up as high as 340 and 358 miles, and we have there used the 23922 scale in comparing these rates, and I want to state that the 23922 scale only extends up to 300 miles; and for this comparison I have extended that 23922 scale at the same rate of progression as exists in the scale from 275 to 300 miles or 10 cents a ton, I think it is, for each 25-mile block.

Q. That is, you have extended it for the distances beyond 300 miles and at that rate of progression?

A. Yes—8 cents, instead of 10 cents.

Q. For each mileage block?

A. Yes, that is right.

Mr. Wilkinson: Have you increased the level of that scale to take care of the general increases that you say have been made since that scale was promulgated?

The Witness: Yes, sir.

By Mr. Stadell:

Q. What have you to say with respect to the contention of the petitioning and respondent railroads in these proceedings that it is necessary to increase the present rates [fol. 1484] from the Illinois mines, as they propose, because such rates menace the rate adjustment on coal in or into Wisconsin?

A. It is our position that such contention is entirely without merit, in view of the facts which I have previously related showing that the present rates on coal from the Illinois mines to points in Wisconsin are on an improper basis and the fact that since May 1, 1939, or for more than four years these railroads have been maintaining rates on coal from the Wisconsin docks to points throughout that state which are on a materially lower average level than are the present rates from the Illinois mines to points in Wisconsin or to points in Northern Illinois.

(Exhibit No. 33, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Have you prepared an exhibit showing the average distances over the short tariff and shortest tariff routes, the present rates, and the rates which were in effect on coal

prior to May 1, 1939, from the Wisconsin docks to representative points in Wisconsin, and the percentage that the present rates are of the 23922 scale?

A. Yes, I have prepared such an exhibit and it has been marked Exhibit No. 34.

Q. Will you please explain what this exhibit contains in so far as any explanation is necessary?

A. The map on page 1 of such exhibit shows, by means of squares or blocks, the location of the various port cities on [fol. 1485] Lake Michigan and Lake Superior at which the coal docks are located. The open circles appearing on this map at Madison and the other points shown indicate the representative Wisconsin points to which we have shown the average short tariff and average shortest tariff route distances, and the present rates on large and fine coal and the rates in effect on May 1, 1939, from such docks.

On page 2, in column B, the name of each of the Wisconsin dock points from which rates are published to Janesville, Wisconsin, *are* shown under the name of the railroad which serves each of such points.

In column C, the average short tariff and shortest tariff route mileage from such docks to Janesville is shown.

Column D contains reference to the route over which such mileages were computed, and these routes are described on page 31 of such exhibit.

Columns E and F show the rates on large and fine coal which were in effect from each of such dock points on large and fine coal to Janesville prior to May 1, 1939.

Columns G and H show the substantially reduced rates on large and fine coal which were established on May 1, 1939, from each of such dock origins to such destinations.

Column I shows the 23922 scale for the average distances shown in column C.

Columns J and K show what per cent the present rates on [fol. 1486] large and fine coal from each of such docks to Janesville are of the 23922 scale, and Column L shows the per cent that the average of the large and fine coal rates is of the 23922 scale.

In line 21, of column C, it will be noted that the average short tariff route distance from all of such dock points to Janesville is 137.1 miles, and in the same line in column L, that the large and fine coal rates from such points to such destinations average 89 per cent of the 23922 scale.

In line 23, column C, it will be found that the average distance over the shortest tariff routes from such dock points to Janesville is 91 miles, and in the same line, in columns J, K and L, it is shown that the large coal rates for this mileage average 89.2 per cent, the fine coal rates 78.7 per cent and both the large and fine coal rates, 84 per cent of the 23922 scale.

Mr. McElroy: Right at that point, on line 23 you show in parentheses "eliminate those routes marked with an asterisk." What does that mean?

The Witness: That means we eliminate duplications of certain origins in order to determine the shortest tariff route, using each point but once.

By Mr. Stadell:

Q. In other words, that is the same method that you used in computing the average distances over the shortest tariff routes from the mines and origins in the various Illinois and Indiana groups?

[fol. 1487] A. Yes, sir.

Q. To the representative suspended and comparative points which are shown in your Exhibits 27 and 28?

A. Yes, sir.

Mr. Boden: They include all of the docks and rates shown thereon?

The Witness: I didn't hear that question.

Mr. Boden: They include all of the docks and rates shown on this page, whether the rates differ or not?

The Witness: Yes, sir. Pages 3 to 29, inclusive, show precisely the same character of information with respect to the average short tariff and shortest tariff route mileages, the rates in effect on large and fine coal prior to May 1, 1939, the reduced rates established on large and fine coal on May 1, 1939, from each of the Wisconsin dock points named to the other 20 representative Wisconsin points which I have used, and the per cent that the present large and fine coal rates from such docks to such representative points are of the 23922 scale.

Page 30 of this exhibit presents a recapitulation of the information which is contained in the preceding pages. On this page I have shown the name of each of the 21 representative Wisconsin points which are used in such exhibit. I have also shown the present large and fine coal rates from

the Wisconsin docks to each of such 21 representative points, and the average of both the large and fine coal rates from [fol. 1488] such docks to such points. I have also shown the average short tariff and shortest tariff route mileage from such docks to each of such points and the per cent that the present large and fine coal rate from such docks to each of such 21 points is of the 23922 scale, based both upon the average distance over the short tariff routes and upon the average distance over the shortest tariff routes.

From this page of such exhibit it will be found that, based upon the average distance over the short tariff routes, the present rates on large and fine coal from the Wisconsin docks to the 21 representative Wisconsin points shown range from 74.4 to 97.8 per cent of the 23922 scale, and to all of such points average but 86.4 per cent of such scale.

As was shown in columns M and O, page 1 of my Exhibit No. 24, the present rates from the Illinois groups and mines as a whole, to the 12 representative suspended Northern Illinois points used by the railroads in their rate and mileage exhibits in these proceedings average 90 per cent of the 23922 scale, and the suspended rates from such groups to such representative points average 93 per cent of such scale. As the present rates from the Illinois mines to the Northern Illinois territory involved in these proceedings average 90 per cent of the 23922 scale, or 4 percentage points higher than the present rates from the Wisconsin docks to points in Wisconsin which, as I stated, average but 86 per cent of such scale, it is difficult to understand what basis [fol. 1489] there is for the railroads' contention that the maintenance of the present rates from the Illinois mines to such Northern Illinois territory menaces or jeopardizes in any way the rate adjustment on coal in Wisconsin. Particularly is this true when it is remembered, as I have pointed out, that the present rates from the Illinois mines to points in Wisconsin are on an improper basis and are improperly related to the rates from the Wisconsin docks to points in such state, even if such relationship is measured by the increased differences which were prescribed between the rates from the Illinois mines, on the one hand, and such docks, on the other, in the Lake Dock Coal Cases.

Exam. Trezise: We will adjourn until two o'clock.

(At 12:30 p. m., recess taken until 2:00 p. m.)

AFTERNOON SESSION

The hearing was resumed pursuant to recess.

2:00 P. M.

Exam. Trezise: Gentlemen, when you are ready we will begin. Proceed, Mr. Stadell.

HARRY A. ROZENE resumed:

Direct examination (Continued).

By Mr. Stadell:

Q. Have the railroads, either through a 13th Section proceeding or otherwise, to your knowledge, made any effort [fol. 1490] to have the rates on coal from the Wisconsin docks to points in that state, which were reduced to their present level on May 1, 1939, in compliance with the order of the Public Service Commission of Wisconsin in its Docket 2-R-633, increased back to the level which was in effect prior to May 1, 1939?

A. No. They published such substantially reduced rates on that date and they have been in effect since that time, or more than four years. It would therefore appear that they intend to continue such rates in effect for the future on the level which is indicated in my Exhibit No. 34. I know of no reason, therefore, why such rates should not provide a proper yardstick to be used in measuring the rates from the Illinois mines to points in Wisconsin, or from such mines to points in Northern Illinois. As a matter of fact, the Interstate Commerce Commission has generally recognized that a higher level of rates should be prescribed and maintained between points in Wisconsin than between points in Illinois, or from points in Illinois to points in Wisconsin.

In the General Class Rate Cases, Docket No. 15879, 164 ICC 314, and Docket No. 17000, Part 2, 204 ICC 595, the Commission prescribed class rates for application within Illinois which were on a level approximately 22 per cent lower than the class rates which it prescribed for application between points in Western Trunk Line Zone 1, in which the [fol. 1491] major portion of Wisconsin is located.

Q. Now, in its decision in Docket No. 2-R-633, to which you referred, did the Wisconsin Public Service Commis-

sion prescribe the specific rates which you have shown in your Exhibit No. 34, from the Wisconsin docks to points in Wisconsin, or did it prescribe a mileage scale and a method of computing distances to be used in arriving at such rates?

A. It prescribed a mileage scale on large coal and a lower mileage scale on fine coal. Its decision required that to any given destination the rate to be established should be arrived at by the application of these scales to the shortest possible distance from the dock point nearest to such destination. Such decision further provided that after having established the rate to each Wisconsin point, based upon such mileage scales and the shortest possible distance from the nearest dock point, that the railroads could then apply the same rates to such destination from all further distant dock points from which the shortest possible distance was not more than 50 per cent greater than from the nearest dock point to such destination.

In other words, the rates from such farther distant docks could be established on the same basis as from the nearest dock, provided that the shortest possible distance from such farther distant docks did not exceed the shortest possible distance from the nearest dock to the destination in- [fol. 1492] volved by more than 150 per cent. The distance over the tariff routes over which the coal moves from such dock to such points would, in many cases, be greater than the shortest possible distance used in arriving at the rates from such dock to such point.

Even though the rate from the nearest dock to a given point might reflect the full scale, it is obvious that establishment of the same rate from farther distance docks from which the shortest possible distance was 50 per cent greater, would result in rates from such farther distant docks that were but 50 per cent of the prescribed scales.

Furthermore as the distance over the tariff routes from such farther distant docks would be longer in many instances than the shortest possible distance used to determine whether the same rates should apply from such docks as from the nearest docks, it is apparent that the distance over which the coal actually moves from such farther distant docks would exceed that from the nearest dock by more than 150 per cent in many cases, and that the rates from such docks would therefore be less than 50 per cent of the prescribed scales, if measured by the tariff route distances.

I would also like to point out that in accordance with the decision of the Wisconsin Commission in its Docket 2-R-633, rates on fine coal substantially lower than those on large coal were established from the Wisconsin docks to points generally throughout Wisconsin, while there are very few [fol. 1493] rates on fine coal from the Illinois mines to points in Wisconsin lower than those on large coal. While, as stated by Mr. Flansburg, such decision did not require the railroads to equalize the rates from the farther distant docks with those from the nearest docks to any given destination in Wisconsin, nevertheless, the Wisconsin Commission knew that the railroads would voluntarily establish such equalization, because they had been required to maintain such an equalization for from 15 to 20 years prior to May 1, 1939, by order of that Commission in prior cases.

Q. Where do the Wisconsin docks obtain the coal which they sell at and ship to points in Wisconsin?

A. They purchase such coal from mines in Ohio, Pennsylvania, West Virginia, Virginia, Eastern Kentucky, and Tennessee, and it is shipped during the spring and summer months by rail to ports on Lake Erie, thence by boat over the Great Lakes to the port cities on Lake Michigan and Lake Superior at which such docks are located. Such coal is unloaded from the boats and stored by dock companies. When orders are received during the following fall and winter from an industrial plant or other consumer at some point in Wisconsin, the tonnage required to fill such order is loaded by the dock company receiving it into railroad cars and shipped to the point in Wisconsin at which such plant or consumer is located. The movement from such docks to destinations in Wisconsin is intrastate, and the intrastate rates prescribed by the Wisconsin Public [fol. 1494] Service Commission, would apply.

Q. Are the boat companies which transport this coal from the Lake Erie ports to the Lake Michigan and Lake Superior docks, common or contract carriers?

A. They are contract carriers.

Q. Have you any information with respect to the total number of tons of coal received at points in Wisconsin during recent years, and the proportion of such tonnage that was shipped from the Illinois, Indiana, and Western Kentucky mines, and the proportion that was shipped from the mines in the eastern states which you previously named.

both over all rail routes and over the rail and lake routes through the Wisconsin docks?

A. Yes. In 1937, 9,127,871 tons of coal were received at points in Wisconsin, and by the Wisconsin docks. Of this total, 852,403 tons moved from mines in the eastern states, all rail, and 6,190,900 tons moved from such eastern mines by rail and lake routes to the Wisconsin docks. The total from the eastern mines was 7,043,303 tons or 77 per cent of the total of 9,127,871 tons. The tonnage from the Illinois, Indiana, and Western Kentucky mines was 2,084,568 tons or 23 per cent of the total. In 1938, 8,846,671 tons of coal were received at all points in Wisconsin, and by the Wisconsin docks.

766,109 tons of this tonnage moved via all rail routes from the eastern mines; while 6,299,879 tons moved via the rail and lake routes from such mines to the Wisconsin [fol. 1495] docks. The total from the eastern mines via both the all rail and the rail and lake routes, was 7,065,988 tons, or 80 per cent of the total from all sources of 8,846,671 tons. Of this latter total, the Illinois, Indiana, and Western Kentucky mines shipped 1,780,683 tons or 20 per cent. In 1940, 9,682,954 tons of coal were received at all points in Wisconsin and by the Wisconsin docks. Of this total, 827,320 tons moved via the all rail routes from the eastern mines, and 6,576,483 tons moved via the rail and lake routes from such mines to the Wisconsin docks. The total from the eastern mines was 7,403,812 tons or 76 per cent of the total of 9,682,954 tons from all sources. Of this latter total, the Illinois, Indiana, and Western Kentucky mines shipped 2,279,142 tons, or 24 per cent.

The tonnage figures which I have given for the movement via the all rail routes from the Illinois, Indiana, and Western Kentucky mines were taken from the reports of the Illinois-Indiana Coal and Coke Committee, and the tonnage figures via the all rail routes from the eastern mines were taken from the reports of the Ohio Bureau of Coal Statistics. These two reports are prepared by committees of the railroads which serve the mines in Illinois, Indiana, and Western Kentucky and in the eastern states. The figures which I have given for the tonnage via the rail and lake routes were taken from the annual reports of the Chief of Engineers, United States Army. I am unable to give this information for later years because the United [fol. 1496] States Army engineers have refused to make

public the information showing the number of tons of coal moved via the rail and lake routes for the years since 1940.

Q. What, if anything, have you to say with respect to the use of the Holmes and Hallowell scale as a yardstick for measuring the propriety or lawfulness of the rates involved in these proceedings?

A. Aside from the mere comparison between the present and suspended rates from the Illinois mines to the Northern Illinois points involved with those from such mines to the comparative points in dollars and cents per ton, the only other yardstick that I can find that the railroads have used in their attempted justification of the increases proposed in the Illinois rates in these proceedings is the Holmes and Hallowell scale. I might add an exception there, that Mr. Kuhls made some comparisons other than with the Holmes and Hallowell scale. We have consistently condemned the use of that scale as a yardstick for measuring the lawfulness or propriety of the rates from the mines of our member companies, particularly when such scale was used to measure the rates for short hauls versus long hauls. That scale was prescribed in Holmes and Hallowell versus Great Northern Railway Company, 69 ICC 11, to apply from coal docks located at Duluth and various other ports on Lake Superior to destinations in Minnesota, South Dakota, and North Dakota. Its construction and gradation reflect the [fol. 1497] peculiar conditions which prevailed and still prevail in that particular territory and which surround the movement of the traffic from the points to the destinations in the states to which it was prescribed to apply.

While the rates arrived at by use of this scale were established to apply from all of the docks on Lake Superior to points in Minnesota, North Dakota, and South Dakota, the Commission's decision provided that such rates should be arrived at by the application of such scale to the shortest possible distance from Duluth only, to such points, computed over not to exceed three lines of railroad.

As found by the Commission in such case, the transportation conditions over the railroads between the Lake Superior docks and St. Paul-Minneapolis, a distance of about 160 miles, were quite favorable, particularly in comparison with the adverse transportation conditions and lower density of traffic which prevailed in the territory between St. Paul-Minneapolis and points beyond in Minnesota, South Dakota,

and North Dakota, to which such scale was prescribed to apply. As the Commission also found, coal from Duluth and the other Lake Superior docks moved to St. Paul Minneapolis in open top cars in almost trainload quantities, while to points in the territory beyond St. Paul Minneapolis, it moved generally in box cars which were loaded to an average of but about 35 tons each. As previously stated, the scale prescribed reflected these conditions, and while such [fol. 1498] scale is, therefore, on a fairly reasonable basis for hauls up to 160 miles, it grades up sharply beyond that distance and is very high for hauls of 250 miles or more.

It is therefore, in our opinion, wholly improper to use this scale to measure the rates for a haul of 400 miles, with those for a haul of 150 miles to 200 miles or less, because this results in the rates for such short hauls being measured by the comparative low and reasonable portion of such scale, and in the rates for the longer hauls being measured by the high and increased graded portion of such scale. Furthermore, as I have previously stated, the rates established from the Lake Superior docks to points in Minnesota, South Dakota, and North Dakota, were based upon the use of this scale as applied to the shortest possible distance which could be obtained by the use of not more than three lines of railroad between such origins and destinations. Such rates were then established to apply for the much longer distances over the tariff routes of the railroads over which the shipments from such docks to such points actually moved without regard to the much longer distances over such routes.

When measured by the distance over the tariff routes over which the coal from such docks to such points actually moves, or by the distance over the short tariff routes from such docks to such points, it will be found,—and it was found by the Commission in Lignite Coal from North Dakota, 89 I.C.C. [fol. 1499] pages 730, 731, and 126 I.C.C. 250—that the rates from the Lake Superior docks to such points are considerably below the Holmes and Hallowell scale, and in many cases are but approximately 80 per cent of that scale when measured by the distance over such tariff routes over which the shipments actually moved.

(Exhibit No. 34, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Have you prepared exhibits showing the average distance over the shortest tariff routes and the present rates on large and fine coal from the Lake Superior docks to representative destinations in Minnesota and South Dakota?

A. Yes. I have prepared one exhibit consisting of 24 pages, and another exhibit consisting of 9 pages, in which I have shown the average mileages over the shortest tariff routes from the various Lake Superior docks to destinations in South Dakota, destinations in Minnesota, and destinations in Iowa. My Exhibit No. 35 shows the name of each of the representative points in Minnesota and South Dakota which I have used, the average shortest tariff route mileage from each of the Lake Superior dock origins to each of such points, an explanation of the route over which such mileages apply, and the present rates on large and fine coal from such docks to each of such points. The heading on the top of page 1 of this exhibit indicates that the average distances shown are via the short tariff routes. It should be corrected to read [fol. 1590] via shortest tariff routes.

Q. The title page of that exhibit indicates that the average mileages are over the shortest tariff routes, doesn't it?

A. Yes.

Q. You merely want to correct the heading on page 1 so as to indicate they are over the shortest instead of the short tariff routes as is now shown?

A. That is correct, yes.

(Exhibit No. 35, Witness Rozene, received in evidence.)

The Witness: My Exhibit No. 36 shows the name of each of the representative Iowa points used, the average shortest tariff route mileage and the present rates on large and fine coal from such docks to each of the Iowa points shown. The heading on page 1 of this exhibit should also be corrected to indicate that the average distances shown are via the shortest instead of the short tariff routes.

(Exhibit No. 36, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Now, have you prepared a recapitulation of the information shown in these two exhibits, to show the percentage that the rates from the Lake Superior docks to the repre-

sentative Minnesota, South Dakota, and Iowa points are of the Holmes and Hallowell scale, when measured by the average distance over the shortest tariff routes from such docks [fol. 1501] to such points?

A. Yes, this information is contained in my Exhibit No. 37. Such exhibit, which consists of four pages, shows the name of each of the representative Minnesota, South Dakota, and Iowa points contained in my two previous exhibits, the average shortest tariff route distances from the Lake Superior docks to each of such points, the present rates on large and fine coal from such docks to such points, and the per cent that such rates are of the Holmes and Hallowell scale for the average distances over the shortest tariff routes.

It will be noted that to the Minnesota points the rates on large coal shown on pages 1 and 2 of such exhibit range as low as 84.7 per cent of such scale, and average 92.8 per cent of such scale. The rates on fine coal range as low as 77 per cent of that scale to Rochester, Minnesota, which is shown on page 2, and average but 87.4 per cent to all of the Minnesota points shown. The average of the large and fine coal rates to such points ranges as low as 82.2 per cent to Tyler, Minnesota, shown on the second page, and to all of the Minnesota points shown, they are 90.1 per cent of such scale.

To the 27 representative South Dakota points shown on page 3 of such exhibit, the large coal rates range as low as 81.4 per cent and average 87.2 per cent of the Holmes and Hallowell scale, while the fine coal rates range as low as 69.5 per cent, and average but 78.3 per cent of such scale for [fol. 1502] the average distance over the shortest tariff routes. The average of the large and fine coal rates from the Lake Superior docks to such South Dakota points range as low as 75.5 per cent, and average but 82.8 per cent of such scale.

To all of the representative points in Minnesota and South Dakota, the large and fine coal rates from such docks average but 88.3 per cent of that scale.

Exam. Trezise: In this interim, would you mind stating, Mr. Rozene, what you meant when you said that the Holmes and Hallowell scale should not be used as a measure, of what rates—you mean rates from mines to destinations?

The Witness: From mines in Illinois to destination.

Exam. Trezise: As a matter of fact, over and above all that you have said about the Holmes and Hallowell scale, the Holmes and Hallowell scale as prescribed, increased, as all other rates were increased, from the mines to destination, has no application on any traffic at the present time, isn't that true?

The Witness: As you have stated, it probably has not, but——

Exam. Trezise: Probably has not; it has none, has it?

The Witness: But I want to point this out, why we have increased the scale as we have shown it. The carriers have done it in their exhibits, and regardless whether you increase it 7½ cents or 15 cents, we are using like for like.

[fol. 1503] Exam. Trezise: Then what you mean is it was used as a sort of a measuring rule, not that that type of Holmes and Hallowell scale was ever applied or is applied at the present time on traffic or as a measure to determine what a reasonable rate would be, other than relatively reasonable?

The Witness: That is right. Now, one thing more I would like to point out——

Mr. Stadell: Did you understand that question?

The Witness: Yes, as I understand the question——

Mr. Vesey: Let us have the question read.

(Question read.)

Mr. Vesey: Now, as I get the Examiner's question, the question is this: is what you mean, the Holmes and Hallowell scale is a scale of rates not in effect on actual coal movements today, but that it could be used as a yardstick for the measuring of rate levels, is that it?

Exam. Trezise: For testing the size of other rates.

Mr. Vesey: Yes. Now, his answer is what?

The Witness: That we have used it for that purpose.

Mr. McElroy: Well, has the order in the Holmes and Hallowell scale been set aside by the Interstate Commerce Commission?

The Witness: No, not that I know of.

Mr. McElroy: It is carried today, that order, as a maximum thing?

[fol. 1504] The Witness: Yes, but the question is, as I understand it, whether the Holmes and Hallowell scale as I

have shown it here are the actual rates that applied on traffic moving from the lake docks.

Exam. Trezise: As increased to the same extent as the other coal rates have been increased, and the other coal rates are the rates from mines to destinations.

The Witness: Yes, and one of the main reasons why we are increasing this scale by 15 cents is because the rates in this territory from Illinois to the Northwest also were increased 15 cents.

By Mr. Stadell:

Q. Could you make a comparison, Mr. Rozene, with any sense to it, that would use the Holmes and Hallowell scale, increased 15 cents, to measure the Illinois rates by, and that scale increased 7½ cents to measure the Holmes and Hallowell territory by in this proceeding?

A. I could make that, yes.

Q. I say, could it make any sense?

A. You would get practically the same answer relatively.

Exam. Trezise: Well, every time a general increase is made in the rates from the mines to destinations, the Holmes and Hallowell scale becomes relatively less, doesn't it?

The Witness: Yes.

Exam. Trezise: It would, of course, if the rates from the mines were increased 15 cents and the Holmes and Hallowell [fol. 1505] scale, the increase would be only half as much?

The Witness: Yes, while we are down to the basis of the Holmes and Hallowell scale at that rate.

Exam. Trezise: Pardon me for interrupting your testimony.

Mr. Stadell: Will you proceed with your testimony?

The Witness: To all of the representative points in Minnesota, South Dakota, and Iowa, the average of the present large and fine coal rates from the Lake Superior docks is but 89 per cent of such scale.

In some cases the Interstate Commerce Commission has prescribed rates from mines in Illinois to points in Iowa, for example, which were approximately 85 per cent of the Holmes and Hallowell scale, apparently on the theory that the rates from the Lake Superior docks to points in Minnesota, South Dakota, and North Dakota were 100 per cent of such scale, and that the transportation conditions surrounding the movement of coal from the Illinois mines to

points in Iowa, and so forth, were so much more favorable than in the territory in Minnesota, South Dakota, and North Dakota, in which such scale was prescribed to apply, as to justify rates from such mines to the destinations involved, at least 15 percentage points lower, as measured by such scale, than those in effect in such Holmes and Hallowell territory. However, as indicated by my Exhibit No. 37, the rates actually in effect in the Holmes and Hallowell territory for the distances over the routes over which the traffic [fol. 1506] actually moves, average but 88.3 per cent of the Holmes and Hallowell scale, and to many points in such territory they are a much lower percentage of such scale.

For the reasons stated, it is our position that it is wholly improper to attempt to measure the rates from the Illinois mines to the representative suspended or comparative points by use of the full Holmes and Hallowell scale, and by use of the inflated distances over the circuitous short tariff routes, which I have previously pointed out, particularly from Southern Illinois, as the railroads have done in their exhibits. Even if the theory of the Commission that the rates on coal from Illinois to Iowa should be approximately 15 per centage points lower, as measured by the Holmes and Hallowell scale, than are the rates in Holmes and Hallowell territory, is accepted as proper, it would seem obvious that such rates should be made at least 15 per centage points lower than the actual rates in effect in Holmes and Hallowell territory, rather than 15 percentage points lower than the full Holmes and Hallowell scale, which is, as shown on page 3 of my Exhibit No. 37, approximately 12 percentage points higher than the present rates from the Lake Superior docks to destinations in Minnesota and South Dakota, which average but 88.3 per cent of such scale. This would be too high a basis, however, to apply from the Illinois mines to points in Northern Illinois, because, as I previously stated, the Commission in the General Class [fol. 1507] Rate Case prescribed class rates within Western Trunk Line Zone 1, in which Iowa is located, that are approximately 22 per cent higher in level than are the class rates which it prescribed for application in Illinois, because of the more favorable transportation conditions in Illinois than in Iowa.

By Mr. Stadell:

Q. What you mean is that the 85 per cent of the actual level of the rates in the Holmes and Hallowell territory would be too high a basis to establish in Illinois?

A. Yes, sir. Coal moving from the Lake Superior docks to points in Minnesota, South Dakota and North Dakota moves for a short distance in Western Trunk Line Zone 1, and for the balance of the distance in Western Trunk Line Zones 2 and 3. In the Western Class Rate Case, Docket No. 17000, Part 2, the Commission prescribed rates in Western Trunk Line Zone 2 which were approximately 39 per cent higher than the class rates which they had previously prescribed for application between points in Illinois, and it prescribed class rates for application in Western Trunk Line Zone 3 which were approximately 50 per cent higher in level than were those which they had prescribed between points in Illinois.

(Exhibit No. 37, Witness Rozene, received in evidence.)

Exam. Trezise: Mr. Rozene, right there, while you are talking about Iowa, have you checked that up to determine whether or not it is a fact that the rates from Illinois to [fol. 1508] Iowa over the shortest tariff routes are higher than the rates from the Head-of-the-Lakes to the same destination territory over these shortest tariff routes for like distances?

The Witness: You mean all of Illinois to Iowa?

Exam. Trezise: I will limit it to Fulton County, Fulton-Peoria group. Well, I thought you knew that.

The Witness: I will know in a minute. The present rates from Lake Superior docks to destinations in Minnesota average 96½ per cent of the Midland scale.

Mr. Stadell: That isn't what he asked you.

The Witness: Read the question.

Exam. Trezise: All right, finish the answer. 96 per cent you say. I see where you are coming out.

The Witness: I would rather answer your question before I go any further.

Mr. Stadell: Go ahead and put that in if you have got it and then answer his question, which as I understand it, was, aren't the rates from Illinois to Iowa, prescribed in the Midland cases, on a higher measure prescribed in the Holmes and Hallowell scale than the rates from the Lake

Superior docks into the Holmes and Hallowell territory, even if you consider equal distances?

Exam. Trezise: Over the shortest tariff routes.

Mr. Stadell: Over the shortest tariff routes. Don't you know that from your participation in the South Dakota [fol. 1509] cases, Mr. Rozene?

The Witness: My exhibit shows that they are.

Mr. Stadell: Why don't you say yes, then?

Exam. Trezise: I just wanted to confirm it, that is all. Thank you.

By Mr. Stadell:

Q. Is the Northern Illinois territory involved in these proceedings an important one from a market standpoint for the mines of your member companies, that is, the member companies of the Central Illinois Coal Traffic Bureau?

Mr. Wilkinson: Are you asking that as an expert who has sold coal or just general knowledge?

Mr. Stadell: General knowledge on tonnages, Mr. Wilkinson. We are not submitting him as an expert on sales of coal.

The Witness: Yes, but it has become a much more important market in recent years than formerly because of the substantial loss which such mines have suffered during the past several years in the tonnage which they ship to points in other states.

By Mr. Stadell:

Q. Have you any information with respect to the decline in the quantity of coal shipped by the mines in the Southern Illinois group, for example, to markets outside the state of Illinois during the past several years?

A. Yes.

Q. Will you give us that information?

[fol. 1510] A. Several years ago the Southern Illinois mines enjoyed substantial markets for their coal in Minnesota, South Dakota, Michigan, Iowa, Wisconsin, Nebraska, Indiana, and Missouri. However, during recent years there has been a very substantial decline in the quantity of coal shipped by them to points in such states. This decline has been due to the displacement of coal from the Southern Illinois mines by other mines, by coal moving by

truck, and by substitute fuels, such as natural gas, fuel oil, and so forth.

As illustrative, the quantity of coal shipped by the Southern Illinois mines to destinations in South Dakota declined from 197,623 tons in 1923 to 100,345 tons in 1941, a loss of 97,278 tons or 49 per cent. In 1924 the Southern Illinois mines shipped 213,338 tons of coal to such state. This declined to 100,345 tons in 1941, a loss of 112,993 tons or 53 per cent. The tonnage shipped by the Southern Illinois mines to points in Nebraska in 1941, represented a loss of 80 per cent as compared with the tonnage shipped by them to points in such state in 1923; and a loss of 85 per cent as compared with the tonnage shipped by them to points in such state in 1924.

The tonnage shipped by the Southern Illinois mines to Minnesota in 1941 represented a loss of 81 per cent as compared with the tonnage shipped by them to points in such state in 1923.

The tonnage shipped by such mines to destinations in Iowa [fol. 1511] in 1941 represented a loss of 52 per cent as compared with the tonnage shipped by them to points in that state in 1923, and a loss of 60 per cent as compared with the tonnage shipped by them to points in such state in 1924.

The quantity of coal shipped by the Southern Illinois mines to points in Michigan declined from 321,649 tons in 1923 to 19,254 tons in 1941, a loss of 302,395 tons or 94 per cent, and the loss 1941 compared with 1924 was 89 per cent.

The quantity of coal shipped by the Southern Illinois mines to destinations in Indiana declined from 1,526,631 tons in 1923 to 79,002 tons in 1941, a loss of 1,447,629 tons or 95 per cent.

with respect to the origin, destination and route of such shipments.

[fol. 1512] Furthermore, the United States Bureau of Mines, Department of Interior, in its Mineral Year Book Reports has referred to 1923, as the first normal year after the last World War. I have used the tonnage figures for 1941, because, as everyone knows, the United States entered the second world war on December 7, 1941, and because of its participation in such war and the tremendously increased demand for coal since that time, the tonnage produced or shipped since that time could hardly be considered as normal.

Because of the large loss which they have suffered in all of their markets outside of the state of Illinois, the Southern Illinois mines are in no position to lose any of the tonnage which they are still able to ship to the Northern Illinois destinations involved in these proceedings. Since 1923 one hundred and one mines have been closed down and abandoned in the Southern Illinois group. These mines had an annual peak production of 26,918,666 tons.

Q. Were the Southern Illinois mines able to operate full time during the more normal years of 1938, 1939 and 1940?

A. No. Full time under the wage agreement entered into between the miners union and such mines would have meant five days per week, 52 weeks per year, or 260 days per year. In 1938 the Southern Illinois mines operated an average of but 137 days. In 1939 they operated an average of but 150 days, and in 1940 they operated an average of 169 days.

[fol. 1513] For all of the reasons which I have stated, we are opposed to the increased rates which are under suspension in these proceedings from the mines of our member companies to the Northern Illinois points involved, and the attempt of the railroads, particularly, the Chicago, Milwaukee, St. Paul and Pacific Railroad and Southern Railway, which serve none of the mines in Illinois but serve mines in Indiana only, to further reduce the level of the rates from the Indiana mines to such points, notwithstanding the fact, as shown by my exhibits, that the level of the present rates from the Indiana mines to the Northern Illinois territory involved is already substantially below the level of the present rates from the Illinois mines.

We request the Illinois and Interstate Commerce Commissions to find the increases proposed by the railroads in the rates from the Southern Illinois and other groups repre-

sented by us, to the Northern Illinois points involved, unlawful and unjustified, and we request the Interstate Commerce Commission to dismiss the pending 13th Section petition, just as it did in the prior 13th Section petition, just as it did in the prior 13th Section case, Docket No. 23130.

[fol. 1514] Q. Now, you referred a moment ago to the average level of the rates on coal from the Lake Superior docks to destinations in Minnesota, I believe it was, as measured by the Midland scale. Have you an exhibit which shows the average shortest tariff-route mileages from the Lake Superior docks to points in the Holmes and Hallowell territory and the level of the present rates from those docks to those points as measured by those average distances and the Midland scale?

A. Yes, I have.

Mr. Stadell: This will be Exhibit No. 38.

(Exhibit No. 38, Witness Rozene, marked for identification.)

By Mr. Stadell:

Q. Will you please explain Exhibit No. 38, Mr. Rozene, in so far as any explanation is necessary.

A. Exhibit No. 38 consists of three pages and is a recapitulation of rates and distances shown in my Exhibits Nos. 35 and 36. This exhibit shows the present rates from Lake Superior docks to destinations in Minnesota, South Dakota and Iowa, together with the shortest tariff route mileage from Lake Superior docks to such destinations in the three states mentioned; and it also compares the present rates from such docks to such destinations as measured by the Midland Electric scale.

Page 2 of the exhibit shows that the present rates from the Lake Superior docks to destinations in Minnesota average 96½ per cent of the Midland scale, and to 27 points in [fol. 1515] South Dakota the present rates from the docks average 92.3 per cent of the Midland scale.

The third page of the exhibit shows that the present rates from the Lake Superior docks to 43 destinations in Iowa average 93.9 per cent of the Midland scale. To the three states combined the present rates from the Lake Superior docks average but 95 per cent of the Midland scale.

(Exhibit 38, Witness Rozene, received in evidence.)

By Exam. Trezise:

Q. Would you say that the distances that you have used from the Head-of-the-Lakes to these destinations are any more over the long single line routes than are the rates from Illinois to these destinations? The distances are figured the same way, aren't they?

A. You mentioned the long single line distance?

Q. I did, yes. I say, are they more over the long single line routes, from one origin than from the other?

A. Do you mean from Illinois or do you mean from the docks?

Q. I mean from the docks and from Illinois, both. If you figured them the same way, wouldn't you have to reach the conclusion that one is no more the long single line route than the other? I am not trying to give you the answer, but I am just wondering if that is so.

A. I don't know what you mean by the single line route.

Q. You know what a long single line route is, don't you?

A. I know what a route is over one railroad. I would say when you mention single line route, you mean a route over [fol. 151] a single line railroad.

Q. Do you understand my question sufficiently to answer it?

A. I don't believe I do. You asked me, if I understand you, if there are long single routes from Illinois as there are from the docks, is that right? Is that it?

Q. Yes. I think that would be the question. Has any one a copy of the South Dakota case here? You can read that in the decision, in response to the exhibits you have just put in, or similar ones, and therefore your comparisons, so the Commission said, are no good. I am asking you whether you consider the criticism is proper of your exhibits?

A. I have attempted here to measure the rates in dock territory by the rates that were prescribed in the Midland case, by using the Midland scale as a yardstick.

Q. That was over the shortest tariff route?

A. Shortest tariff route, yes, sir.

Q. And you figured the rates over the shortest tariff routes from the Head-of-the-Lakes too, didn't you?

A. Yes, sir.

Q. Then I asked you, if the distances that you used from the Head of the Lakes are any more over the long single

line routes than you could term the rates and method of figuring from Illinois to these destinations?

A. Well, I don't remember just what the mileages were in the South Dakota case. We have some long single line [fol. 1517] routes up as far as Sioux Falls, I think, from Southern Illinois, and there are long single line routes from the docks into Sioux Falls.

Q. Then you have long single line routes from both origins, haven't you, because you figure the distances the same way?

A. Yes.

Exam. Trezise: We will pass that right there.

Mr. Vesey: May I suggest a recess, Mr. Examiner?

Exam. Trezise: I think this would be a good time to have a short recess.

Mr. Stadell: I was just going to offer the exhibits.

Exam. Trezise: It is understood on the record, as agreed before, that when the exhibits are identified and described they will be shown as received in evidence, unless they are later rejected.

(A recess was taken.)

Exam. Trezise: Proceed, Mr. Stadell.

By Mr. Stadell:

Q. Could you give us the total number of tons of coal that was originated by all railroads serving the Princeton, Indiana, group in 1941?

A. In the Princeton Group?

Q. Yes, as a whole.

Mr. Wilkinson: I object to that. It is immaterial how much coal was originated in the Princeton Group. The issue here is the rates to certain destinations in Northern Illinois and Beloit, Wisconsin.

[fol. 1518] Exam. Trezise: Oh, I think that we would let him show that. He may want to divide it up. I don't know.

Mr. Wilkinson: Well, if he divides it up, it may have some pertinency, the production.

Mr. Stadell: It isn't the production. What I am asking for is the total commercial coal tonnage.

Mr. Cardy: What year was that, Mr. Stadell?

Mr. Stadell: 1941.

Exam. Trezise: Go ahead.

The Witness: Yes. For the year 1941 the total commercial tonnage which originated in the Princeton-Ayrshire Group amounted to 4,941,381 tons.

By Mr. Stadell:

Q. Now, can you tell us how much of that originated at origins on the Southern Railway?

A. Yes, 357,295 tons.

Q. Now, can you tell us how much of that originated at origins on the Algers, Winslow & Western, and of that total give us the tonnage that was delivered by that road to the Southern Railway and to any other railroad.

A. In 1941 there were 2,129,206 tons that originated on the AW&W. Of this amount, 2,020,842 tons was interchanged with the New York Central and 108,364 was interchanged with the Southern Railway.

Q. So that if we add that tonnage interchanged between the AW&W and the Southern Railway and the Southern [fol. 1519] Railway tonnage, we would have the total commercial coal tonnage that was originated or interchanged with the Southern Railway in that group in that year?

A. Yes, sir.

Q. Now, have you a few corrections that you wanted to make on some of your exhibits?

A. Yes, I have. On Exhibit 27, page 3, the footnote at the bottom of the page reads, "The rate from IC mines is 217." It should read 214. In Column C, line 8, the route symbol should read N-15.

Q. What line was that?

A. Line 8.

Q. N-15?

A. Yes, instead of N-52.

Mr. McElroy: That is on the same page?

The Witness: Yes, sir. Then on line 24 change the route symbol to read N-15 instead of N-52. Make a similar change at line 32, at line 39, at line 43, line 46, 50, 51, and 53.

On my Exhibit No. 29, page 6, line 16, column C, change the 278 to read 184; and column D, change the 184 to read 199.

Mr. Stadell: That is suspended rates?

The Witness: Yes, sir; and column E, change from 199 to 278. That is all the changes there.

On Exhibit No. 34, on page 2, column 1, line 23, I don't want you to make any changes in that. There is [fol. 1520] evidently an error in there, but I will have to check it up.

Mr. Stadell: An error in what?

The Witness: In the $1.43 rate. I will have to check it up.

Mr. Stadell: You are going to check that a little later and make any correction, if there is a correction to be made?

The Witness: Yes. Then on page 30 of the same exhibit, the last column, opposite Fort Atkinson, I show 81.5. It should read 80.8. Then opposite Beloit, four lines down, where it reads 87.8, it should read 87.6. It was evidently typographical errors because there is no change made in the total at the bottom of the page. That is all I have.

Exam. Trezise: Before you start cross-examination are you ready for cross?

Mr. Stadell: Yes.

By Exam. Trezise:

Q. Would you give us a little better idea, Mr. Rozene, of what you have in mind, and would you say that this is true, in calculating your distances from Southern Illinois to Northern Illinois and to the so-called suspended points, do you think that the carriers should short-haul themselves under the suspended rate routes to Northern Illinois, or else they should the shorter routes not now published in their coal tariffs in determining the rates to apply from the origins to these so-called suspended destinations? Which of those do you think should be done?

[fol. 1521] A. Well when you said shorter routes, Mr. Examiner, before I answer your question, I would like to know what you mean by the shorter routes.

Q. In Exhibit 30 you have a route that is partly by a red line and partly by a blue line and that is not a tariff route, as I understand.

A. That is correct.

Q. And you think that the originating carrier should short-haul itself by turning it over to an intermediate carrier and then the originating carrier possibly get it back at some subsequent junction point, in order to make a shorter route, and short-haul itself? Do you think that the carriers should be required to do that, if there is any

authority for doing it, or do you think that we should just use the distance over such a route as that not now published in the coal tariffs in determining what the rate should be from the origins in Southern Illinois to these Northern Illinois destinations?

A. Well, as I pointed out in my direct testimony, Mr. Examiner, we are not asking the carriers to short-haul themselves on any of this traffic. But we are objecting to having our rates measured by the use of these long, unnecessary circuitous routes. Now, the rates could probably be made on some constructed basis, but we wouldn't expect the carriers to haul it over those constructed routes.

Q. Well, if that were done from Illinois, and of course, [fol. 1522] the same thing would have to be done from Indiana and Western Kentucky—you would agree to that, wouldn't you?

A. Oh, yes, we would be willing to compare like for like. Now, if there should be unduly circuitous routes in Indiana as we have here in Illinois, we would be willing to go along on the same basis from Indiana.

Q. So we are in this position. You have shown your shortest tariff routes from origin to destination, but you would discard them and in lieu thereof take a constructive distance, if you want to call it that, in determining what the rate should be in all instances where the route that is published in the tariff is appreciably longer than the shortest route that you have calculated here, is that right? You don't propose to use the shortest tariff routes because you suggest other routes, that is true; isn't it?

A. Well, the shortest tariff routes have the same inflation as do the short tariff routes.

Q. That is right, and I am trying to get to the point, what do you call circuitous, how much, what percentage?

A. Oh, 15, 20, 25, 30 per cent.

Q. Would you say that the illustrations that you have given in Exhibit 30 represent such a circuity?

A. Some of them would. I haven't checked them up to [fol. 1523] to what extent the amount of circuity is in those routes, but it was quite appreciable.

Q. Well, I am just wondering where the Commission would be if it undertook to pick out all instances of that kind, without some guidance from the competing lines. Of course, the question of rates in coal particularly is a matter of competition. If your method there is fol-

lowed from Illinois, it would have to be followed from the competing mines, as you say?

A. We wouldn't object to that.

Q. So where does that leave the Commission at the present state of the record? You wouldn't take the shortest tariff routes with the infirmities that you have referred to, and you wouldn't take the short tariff routes.

A. Well, I would suggest you take the mileages shown in column A of Robertson's Exhibit 4, which we talked about yesterday was the short rate making line. That is what was done in 23130, as I understand it, on these longer hauls, and it seems——

Q. Well, then, your Exhibit 30 would be out the window, except to show the extravagant routes that are used.

A. It is presented for that purpose, to show how unduly circuitous and how much inflation there is in the routes from Southern Illinois.

Q. All right. Then what you think the Commission ought to do is to take the distances, the short rate making route from each of these mines?

A. Well, as the record stands, that is about the only distances in the record at the present time, but if we get to a [fol. 1524] point where they want to use something else, we could use short circuit routes, so-called class rate formula.

Q. Yes, that could be done. That isn't in the record here as to what they are. You have to be practical about this. You know I have to write this case and I won't know what to do about it, and I am relying on you to tell me.

A. Well, if I had the time to do it and this proceeding permitted, then I would be glad to put the short circuit routes in this, the mileage over the short circuit routes in this case.

Mr. McElroy: From Indiana as well as Illinois?

The Witness: From Indiana as well as Illinois, and take that result and let the groups fall in where their mileages fall and give them a rate based on that mileage from each individual group.

Cross-examination.

By Mr. Bather:

Q. Mr. Rozene, in the adjustment of class rates in the state of Illinois the shortest route is used in figuring the class rates from point to point, is it not?

A. So I understand.

Q. Now, in your Exhibit 30 you make various comparisons of routes to Belvidere. Now, prior to the abandonment of the line of the North Western Railroad between Sycamore and Belvidere, the mileage was somewhat shorter, wasn't it?

A. 50 miles shorter via that route.

[fol. 1525] Q. So that today instead of moving the traffic through DeKalb, Sycamore and Belvidere, it has to move through West Chicago?

A. The traffic would have to move that way, but if you reconstructed the mileage it would probably move through Rockford in order to get the short distance. No doubt the traffic moves via West Chicago.

Q. So that by the abandonment of that line between Sycamore and Belvidere, the mileage from Illinois mines was increased, whereas from Indiana, where the traffic moved through Proviso, there was no increase in the distance?

A. I believe that is correct. If there was any increase, it probably wouldn't be over a mile.

Q. So that from Illinois Central mines, for example, to Belvidere, where is the traffic delivered to the North Western?

A. I think at Peoria.

Q. South Pekin, isn't it?

A. South Pekin, yes.

Q. And from CB&Q mines to Belvidere, where would the CB&Q deliver the traffic to the North Western?

A. At Sterling, Illinois.

Q. So that if you had a route to Belvidere in connection with the Illinois Central to Freeport, for example, that would also decrease the mileage as compared with the present routes over which the traffic moves?

A. Yes, sir, it would.

[fol. 1526] Mr. Bather: That is all.

By Exam. Trezise:

Q. Mr. Rozene, you said that you thought we might take the short rate-making route in determining what the distances is to be used, and you referred to Exhibit 4 of the carriers, and there is a part 3 that you mentioned. I find also part 4 is composed in the same manner, and I have some conception of what the distance might be from South-

ern Illinois to Chicago, and I find that to Chicago from Southern Illinois they show the shortest tariff route is 286 miles. I don't know how my figures worked out as to what the real facts are, as to what we might consider the short rate-making route from Southern Illinois to Chicago, but I searched about a bit and I found some little town down there in Southern Illinois that I don't believe there is any mine at, at all; nor a city, to Chicago is almost that distance, 272 miles. Now, would you advocate using a distance like that in determining what the rate would be? I am picking out Chicago as a destination because I haven't been able to calculate these distances. But this Part 4 seems to be made up in the same way as Part 3, and I concluded that, therefore, that would represent the distance that you have in mind, if we take 286 miles from Southern Illinois to Chicago as the basis upon which to determine what the rate is.

A. Well, that, of course, represents the shortest rate-making line that we are talking about.

Q. But from the nearest point in the group to Chicago?

[fol. 1527] A. No, not the nearest point—from the nearest group of mines.

Q. Now, do you think 286 miles would represent the average mileage from the nearest group of mines? What would that be on the Big Four?

A. That 286.6 miles shown in carriers' Exhibit No. 4 that you referred to is the distance from one mine on the Missouri Pacific in the Southern Illinois Group.

Q. But it is only one mine and it is not all of the Missouri Pacific mines, is that true?

A. That is true, it is one mine, moving via Mt. Vernon.

Q. And that is the nearest mine that can be found to Chicago in the Southern Illinois Group?

A. Yes, sir.

Q. Well, you wouldn't advocate figuring distances that way, would you?

A. I wouldn't get it down that fine.

Q. Well, I thought you got down that fine a while ago.

A. You said the short rate-making routes, as indicated in Section 3 of Exhibit 4, I believe you were talking about. Well, Mr. Examiner, that is what the Commission referred to in 23130, and if it should boil down to that fine a point, we wouldn't expect to base a rate on the nearest mine in a group. We would be basing it on an average from some important mine. We want to be reasonable. We don't

want to be unreasonable. But we do object to being loaded up with all of these long, undnly circuitous routes from [fol. 1528] Southern Illinois, when the other mines from Indiana have much shorter routes.

Q. All right. Now, how is that going to help the Commission in ferreting out these difficulties? What are we going to use in the record up to the present time—your shortest tariff routes? Do you know of any better guide that is in this record up to the present time than the shortest tariff routes?

A. Well, I believe that we could get a better adjustment from all the fields and more reasonable and more fair to everybody if we took the distances that I pointed out here, with reasonable modifications.

Mr. McElroy: What distances that you pointed out?

The Witness: In column A of Mr. Robertson's Exhibit No. 4.

By Exam. Trezise:

Q. And using 286 miles to Chicago, for example, and I thought you said you wouldn't go that far, and now you say you would.

A. Mr. Examiner, you would have to take a look at all of the fields in Indiana, Western Kentucky and Illinois and see what the result would be. If it was fair to all of them, I would say, use it.

Q. Now, you do agree that it would be unfair to take the nearest mine, one mine in the group, because the groups are of different sizes, and you admit, do you not, or isn't that what you are saying that it would be unreasonable, [fol. 1529] unfair, to take the nearest mine in the group and figure the distance over the shortest rou.

A. Well, if you do that with every group in Illinois and Indiana, we would go along on that basis.

Q. I am just trying to find out where you stand. I don't want to make you say anything. I thought you said a while ago you didn't think that was fair.

A. Well, you singled out Southern Illinois, and I wouldn't expect Southern Illinois to have their mileage measured from the nearest point in the group and then take an average from some other group. I am willing to go like for like.

Q. Then you would be in favor of taking, regardless of the size of the group, the nearest mine in the group and figure

the distance over the shortest line and deal out justice to every group in that manner?

A. Yes, sir. That would put the different groups on their proper relationship, as far as distance is concerned, to any given point.

Q. Well, would you prefer that method to figuring it over the shortest tariff routes, as you have in your exhibits?

A. Well, we can't agree to using our long circuitous routes from Southern Illinois. It penalizes Southern Illinois, which I have shown, and we think it is unfair that Southern Illinois should be pushed way down with a lot of long, unduly circuitous routes. Now, they could construct [fol. 1530] shorter routes and take out some of those longer routes. They wouldn't necessarily have to haul the traffic over those routes. It is a very simple matter.

I show you here to Belvidere, the first map on my Exhibit No. 30, there is an illustration of the route from the New York Central mines to Belvidere. They haul it from Danville and over to Peoria and around. It seems it would be sensible to haul it up to Proviso and give it to the IHB and send it then via the North Western, like the coal from Indiana moves. It just reduces our mileage 128 miles. We are loaded up with 128 miles which the carriers are using measuring our level of rates.

By Mr. Vesey:

Q. Isn't that the way it moves on page 3 of that same exhibit?

A. I don't know whether it moves that way.

Q. Look on page 3 of your exhibit. In part doesn't it move that same way?

A. Yes, it moves that way there. There are a lot of routes where they move up through Chicago, I don't know why they couldn't haul this one through Chicago.

By Exam. Trezise:

Q. Then you do think that the originating line should short-haul itself and turn it over to another railroad to haul a part of the way and then receive it back at some other junction point?

A. No, I don't expect them to do that, but we should be entitled to have our rates based on reasonable routes. We [fol. 1531] don't expect them to haul the traffic that way.

Q. Then you think that the rate should be determined from Southern Illinois to these Northern Illinois points by using these shorter distances that you have calculated here as the basis for calculating that rate, although the traffic may be hauled over the existing tariff route; that is what you say?

A. Yes, that is right.

Q. And if that be true, then it would be necessary also to calculate similar shorter routes from Indiana and from Kentucky in order that they might have the benefit of this same shorter distance for the calculation of your rates?

A. We wouldn't expect them to be—if our rates were based on constructive routes, we wouldn't expect Western Kentucky or Indiana would be based on anything else but the same method.

Q. Now, I am going to ask you this one question and I am not going to ask any more on that line. What method should the Commission use in calculating distances from the exhibits that are in the record to the present time?

A. Well, the only thing that is in the record at the present time would be these mileages pointed out in column A of Exhibit No. 4. That is the only thing of record that I know of.

Mr. Stadell: Haven't you got short tariff and shortest tariff mileages in the record, Mr. Rozene?

The Witness: Yes, but we are not advocating the use of the shortest tariff mileages on account of our long circuity, [fol. 1532] either in the short or the shortest. Of course, if we are going to be imposed with these routes, between the two of them, I would recommend the use of the shortest tariff routes.

Exam. Trezise: The two of which?

The Witness: Short or shortest. I would suggest we use the shortest tariff routes as I have computed it.

Exam. Trezise: Will you stay by that, Mr. Rozene?

The Witness: We are willing to take the routes as shown in our Exhibit 28 and Exhibit 29, with the modifications that I have pointed out in my Exhibit 30.

Exam. Trezise: All right. Any questions?

Mr. Wilkinson: I have some questions if the railroads don't want to do some cross examining, but I think it would be proper for me to follow the railroads in the proper procedure.

Exam. Trezise: Yes, the railroads should precede you, I imagine.

Mr. Zoll: Mr. Wilkinson, you are at liberty, as far as I am concerned, to go ahead if you would like to.

Mr. Biaett: I would like to defer my cross examination of Mr. Rozene until tomorrow morning, if I may, Mr. Examiner.

Exam. Trezise: Then we shall adjourn this evening until ten o'clock tomorrow morning.

(At 4:30 p. m., September 24, 1943, adjourned to 10:00 a. m., September 25, 1943.)

[fol. 1533]

Morrison Hotel,
Chicago, Illinois,
September 25, 1943.

The hearing was resumed pursuant to adjournment at 10:00 o'clock a. m.

Before R. N. Trezise, Examiner. F. B. McElroy, Illinois Commerce Commission

APPEARANCES:

As heretofore noted.

PROCEEDINGS

Exam. Trezise: All right, gentlemen, when you are ready, we will begin.

HARRY A. ROZENE resumed:

Cross-examination (Continued):

The Witness: Before we resume, I would like to make a statement, Mr. Examiner. Yesterday there was some discussion about distances over the various routes, such as short tariff and shortest tariff routes, and during the course of my testimony I pointed out the extreme circuity in a lot of these short tariff and also shortest tariff routes from Southern Illinois.

Exam. Trezise: That is in your Exhibit No. 30 particularly?

The Witness: Yes, sir, and you asked me, in view of the fact I had shown all these long circuitous routes, what routes would be used, and I stated we should use the mileages over

[fol. 1534] the short rate-making routes, which are shown in Column A to Robertson's Exhibit No. 4, and it was pointed out that in some instances these were not the short rate making routes.

So I made a study of that last night and I find that they are not the routes that I thought they were. So, therefore, I want the record to show that I am not advocating the use of these so-called short rate-making routes shown in Column A of Robertson's Exhibit No. 4.

Exam. Trezise: And the record so shows. I believe yesterday we concluded that you had discarded that.

By Mr. Stadell:

Q. Right to that point, the reason you are not advocating the use of the mileages over those routes as shown in Robertson's Exhibit No. 4 is because, as you stated, they are not the routes or the mileages which you thought they were at the time you testified?

A. That is correct. However, that leaves the mileages over the short and the shortest tariff routes in the record. Now, so far as the record shows, and so far as I know, there are only two sets of mileages in the record, over the short tariff routes as the railroads have computed them, and over the shortest tariff routes, which method I have used.

Exam. Trezise: That is not completely true, is it, Mr. Rozene, because some of these spurious routes are shown called the longest routes and they were averaged with the shortest routes in the railroads' exhibits, and thus they [fol. 1535] are wider than the average—different from the average shortest tariff routes from each mine in the group and also different from the average of the so-called short tariff routes; that is true, isn't it?

The Witness: They have those figures in there that you mentioned, but I thought that one of those columns was just the longest route, but was not averaged with the shortest route.

Exam. Trezise: That is right. So there are other distances in here?

The Witness: Yes.

Exam. Trezise: But you are now talking about the average of the shortest tariff routes and the average of the short tariff routes?

The Witness: Yes, sir, and the difference between the two routes I believe is enough to show that some circuity has been taken out of the short tariff routes by the use of the shortest tariff routes. Now, as I pointed out, there is quite a circuity in shortest tariff routes. For instance, as I pointed out, to Belvidere, Illinois, and I believe that the Commission could, or I suggest that the Commission could use or should use the shortest tariff routes as I have computed them and give due consideration to this extreme circuity that I pointed out, especially as to Belvidere.

Exam. Trezise: And you have not changed your testimony from your conclusion yesterday at all, had you, by [fol. 1536] your statements this morning?

The Witness: No, sir.

Exam. Trezise: Cross-examine.

By Mr. Zoll:

Q. Mr. Rozene, on page 26 of your prepared statement, in speaking of the rates to Wisconsin destinations from the Wisconsin docks, you have made this statement, and I am quoting: "Even though the rate from the nearest dock to a given point might reflect the full scale, it is obvious that establishment of the same rate from farther distant docks from which the shortest possible distance was 50 per cent greater, would result in rates from such farther distant docks that were but 50 per cent of the prescribed scales." That is the end of the quote.

Is it not true that where you say 50 per cent of the prescribed scale, what you meant was 66⅔ per cent of the prescribed scale? For example, if your short route was 100 miles and another dock was 150 miles away, or 50 per cent longer, your rate would be 66⅔ rather than 50 per cent of the scale?

Mr. McElroy: It is just a mathematical computation, isn't it?

Mr. Zoll: Yes. That is all I think it is.

The Witness: Yes, that is right.

By Mr. Zoll:

Q. Now, on page 27 of your statement, in dealing with the Holmes and Hallowell scale, you say that in your opinion it is improper to use that scale to measure the rates [fol. 1537] for a haul of 400 miles with those for a haul

of 150 miles to 200 miles or less. Well now, what do you think of the propriety of using the Holmes and Hallowell scale as a yardstick to measure two different rates which exceed 200 miles?

A. Well, I contend that by the use of the Ho-mes and Hallowell scale that it doesn't give you a correct picture. Now, you could probably use the Holmes and Hallowell scale if you had equal mileages.

Q. Well, from your statement I thought you meant that you couldn't measure by that scale a rate applying for a distance of 400 miles with a rate applying for a distance of less than 200. Now, I am asking you about two rates of say 350 and 400 miles. Could you compare those pretty well by the Holmes and Hallowell scale?

A. I would have to have the Holmes and Hallowell scale before me. I don't recollect just where the break comes in the gradation of the scale. If there is any break in the gradation there, I would say it would be improper to use it.

Q. I understood you to say the break came at 160 miles and that up to 160 miles the scale was rather a reasonable one.

A. In and of itself, yes.

Q. But that after 160 miles it is going up, so to speak?

A. That is right.

Q. Now, if you compared two different rates applying over the distances which caught the Holmes and Hallowell [fol. 1538] scale or its farther distant bracket, so to speak, wouldn't that be a good comparison?

A. As I say, if there was no step-up in the gradation between those two mileages that you speak of.

Q. That is what I thought you would say, because your position, as I understood it, was it was improper to compare one above the break and one below the break?

A. That is right.

Q. Now, in your testimony in which you dealt with what you called the excessive circuity of the tariff routes from Illinois origins, I just wanted to make sure that I understood your position, that you were not asking that any particular routes be prescribed, but merely that that circuity, such as exists, be taken into consideration in the comparison of the rates. You are not asking for routes or anything like that?

A. No. We are not asking you to establish these routes and move traffic over them, as I pointed out. I have used

these comparisons to show the extreme circuity that exists in the routes from Southern Illinois, and we think they are very unfair and that they should be taken into consideration when the mileage from Southern Illinois is used.

Q. You have no objection to the existing routes as operating routes, but you think that their nature should be considered, as far as comparisons of distances are concerned?

A. Yes, sir. We have no objection to the carriers hauling [fol. 1539] the coal over any route they choose. But when it comes to making the rates, we do think that some consideration should be given to all these long unnecessary routes that has a tendency to make our rates appear low, as they would if they were compared with reasonable routes.

Mr. Zoll: That is all I have at this time.

By Mr. Biaett:

Q. Mr. Rozene, when you were talking about the different class rate levels and the fact that Zone 1 of Western Trunk Line territory is a higher percentage than applies in Illinois Freight Association Territory, do you know if any of the comparative points which the carriers have used are located in Zone 1 of Western Trunk Line territory?

A. I believe they are not.

Q. They are not located in Zone 1?

A. They are located in Illinois Freight Association Territory.

Q. Does the general level of class rates in Illinois and in Illinois Freight Association and in Southeastern Wisconsin and in Illinois Freight Association reach about the same result in the level of the rates?

A. Will you read the question, please.

Q. Let me reframe it. In other words, does the same level of rates apply in Illinois and in Illinois Freight Association Territory as apply in Wisconsin and in Illinois Freight Association territory?

A. I believe they do, yes.

[fol. 1540] Q. Now, carrying that one step farther, how do the class rates in Illinois Freight Association Territory compare with the class rates in Central Freight Association territory?

A. I think they are the same.

Q. Well now, if we are going to use class rates and class rate territories in considering coal rates, would you advocate that the coal rates in Illinois Freight Association territory should be on substantially the same level as the coal rates in Central Freight Association territory?

A. No, sir.

Q. What do you think they should be in relation to the coal rates in Central Freight Association territory?

A. I couldn't answer that question. I haven't made a study of the rates in Central Freight Association territory compared with the rates in Illinois territory.

Q. Well, you are familiar with them generally, aren't you, Mr. Rozene?

A. Yes, generally, I am.

Q. And you know that generally they are on a higher level than they are in Illinois Freight Association territory?

A. They might be. In some instances they may be higher, yes, but generally, I couldn't say that as a general proposition. I know of rates that are higher and some are lower.

Q. If you can't carry your class rate analogy in Illinois Freight Association territory to Central Freight Associa-
[fol. 1541] tion territory, how do you think that you can carry it into Zone 1 of Western Trunk Line territory?

A. No. I used the class rate testimony to show that the rate levels in Zone 1 should be higher than they are in Illinois, and the Commission has so found it, that the class rates should be higher, and they found that due to the different operating conditions in the different territories. That is why they made a distinction or stepped the class rates in Zone 1 on a higher basis than they are in Illinois Freight Association territory.

Q. Now, you state that they found that on the basis of operating conditions. Was that the only factor they took into consideration?

A. Well, traffic density and all that, population, and everything that is pertaining to the higher cost of hauling traffic.

Q. Do those factors affect the transportation of coal to the same extent as they affect the transportation of commodities under the class rates?

A. I couldn't answer that question.

Q. Now, with respect to this 23922 scale which you have used, from and to what points does that apply?

A. Well, it was prescribed to apply from points in Indiana to Central and Eastern Illinois.

Q. Those points are in what class rate territory?

A. Illinois Freight.

Q. They are all in Illinois Freight Association territory?

[fol. 1542] Well, except Indiana—those are not in Illinois Freight.

Q. Would you say then that the rates to the comparative points and the rates which carriers are proposing to the suspended points, which are lower than the 23922 scale, are unreasonably high?

A. Again, I couldn't answer that question, whether it is or not. I have used that 23922 scale, also the Midland scale, as yardsticks.

Q. For what purpose?

A. To show the level from Illinois mines to Northern Illinois points.

Q. And also the level from Illinois Mines to Wisconsin points?

A. That is right.

Q. And those levels are below 100 per cent of the 23922 scale, are they not?

A. I think my Exhibit No. 24 shows the situation. Page 1 shows that the average level from Illinois groups to the suspended points is 90 per cent of the 23922 scale.

Mr. McElroy: That is of your scale extended, isn't it?

The Witness: Yes, it is extended.

By Mr. Biaett:

Q. That is the present rates?

A. Present rates, yes.

Q. Well, do you know of any reason why rates from the Illinois mines to points in Illinois, origin points in Wisconsin and Illinois Freight Association territory, should [fol. 1543] be on a lower level than the 23922 scale?

A. Yes, I believe they should, in view of the level of the rates from Indiana to this territory and in view of the level of the rates from Lake Michigan docks to the Wisconsin points as I pointed out. I don't think they should be on as high a level as either one of those points.

Q. You are dealing there with purely a rate relationship, are you not?

A. Yes, sir.

Q. From the standpoint of the maximum reasonableness of these rates for intrastate transportation from Illinois

mines to Northern Illinois, do you know of any reason why they should be on a lower level than the 23922 scale?

A. Yes. In the first place, the 23922 scale is based in a lot of instances on the shortest circuit route distances, and here you are dealing with tariff route distances, which are not the same as the shortest circuit route distances.

Q. Do you know how much lower they should be than the 23922 scale?

A. No, I couldn't state specifically.

Q. With respect to the use of the Holmes and Hallowell scale as a measuring stick, as I understand it, you have no objection to the use of the Holmes and Hallowell scale to measure the relative levels of rates from the different fields to a particular destination, is that correct?

[fol. 1544] A. Why, yes, we object to the use of the scale on account of, as I stated in my direct examination, the gradation of the scale. That is one of our main objections. Sure, we object to it.

Exam. Trezise: Would you pardon me if I put this on the record?

Mr. Biaett: Yes, sir.

By Exam. Trezise:

Q. Mr. Rozene, do you believe that frequently there is a misconception concerning a comparison of the rates with the Holmes and Hallowell scale as you have set forth here? In other words, what I mean, when the Holmes and Hallowell scale is used as a tape measure with its varying and alleged disproportionate notches, it still may be used to show that one rate is a greater percentage of that scale than another rate for like distance, without undertaking to make a comparison with the Holmes and Hallowell scale from the standpoint of reasonableness, to show that the compared rates are higher or lower than the Holmes and Hallowell scale itself?

A. As I understood you, you said for like mileages.

Q. For like mileages.

A. It could be used for that purpose, yes, sir.

Q. And it still is not making a comparison with the Holmes and Hallowell scale, other than to compare two rates?

A. That is all.

By Mr. McElroy:

Q. If that same question were asked of you with respect [fol. 1545] to the 23922 scale, would your answer be any different? Haven't you used the 23922 scale as a measuring stick to test the Illinois rate, on the one hand, and the Indiana rates, on the other?

A. Well, the 23922 scale doesn't contain the infirmities of the Holmes and Hallowell scale.

Mr. McElroy: Forget the infirmities.

Exam. Trezise: Are you undertaking to say, no?

The Witness: No. It could be used for the same purpose.

By Exam. Trezise:

Q. Well, Mr. Rozene, you said a while ago that the rates in Illinois ought to be lower than this other scale that you mentioned.

A. Because the rates in surrounding territory are lower. That is my contention. We have shown the rates in Illinois are on a higher level than the rates from Indiana to this territory and from the Lake Michigan docks to the compared points in Wisconsin.

By Mr. McElroy:

Q. By the use of some measuring yard?

A. Yes.

Q. And the measuring yard was the Holmes and Hallowell scale or the Midland scale or the 23922 scale?

A. Yes.

Q. And as to the 23922 scale, you extended that scale so you would have a distance between Illinois and some points in Southern Wisconsin?

[fol. 1546] A. Yes.

Q. And the Interstate Commerce Commission didn't prescribe any scale for that distance?

A. That is right, they did not.

Q. So you are not attempting to make any comparison of the level of the rates per se in Illinois with the 23922 scale?

A. No. I am using the 23922 scale as a yardstick to show what the level of our rates in relation to that scale is compared to Wisconsin and Indiana.

Q. The reason I asked that question, I gathered from your response to questions asked by Mr. Biaett, you were attempt-

ing to make a comparison of the level of the rates with the 23922 scale which you have extended.

A. I am not trying to show anything in and of itself. I am making comparisons.

By Mr. Biaett:

Q. Do you see any objection to using the Holmes and Hallowell scale as a comparison?

A. Yes, because there are unequal hauls in this territory. You have hauls from 150 miles to 400 miles. I stated in my direct testimony that the gradation of the Holmes and Hallowell scale doesn't show a true picture of what the setup should be.

Exam. Trezise: May we get it straight then. Why did you say that the rates in Illinois should be lower than the 23922 scale, if you are not making a comparison with the 23922 scale, from the standpoint of reasonableness? How [fol. 1547] would you explain that? You know that is on the record.

A. I couldn't make a statement as to what the rates in Illinois should be in and of themselves without using the comparisons that I have set forth in my exhibits, to show that our rates are higher than the rates from competing fields.

Exam. Trezise: You did say that you thought that the rates in Illinois should be lower than the 23922 scale, didn't you?

The Witness: In view of the level of the rates from the other competing fields, they should.

Exam. Trezise: And you say that that is not making a comparison with the 23922 scale from the standpoint of relative reasonableness?

The Witness: Yes, relative reasonableness, it is.

Exam. Trezise: Thank you.

By Mr. Biaett:

Q. In other words, Mr. Rozene, you take it that because the hauls from the Southern Illinois Group are longer than the hauls from certain other groups in Illinois, that in making a comparison with the Holmes and Hallowell scale the Southern Illinois Group should take a lower percentage of

the Holmes and Hallowell scale than the other groups from which the distance is shorter?

A. No, I don't believe in using the Holmes and Hallowell scale for any purpose in measuring the rates in this territory, and I haven't used it.

[fol. 1548] Q. Do you know, Mr. Rozene, to what extent the Holmes and Hallowell scale grades upward from 160 miles to 400 miles?

A. I am sorry, I haven't the scale. I couldn't say without having the scale before me.

Q. Do you have Mr. Robertson's Exhibit No. 4 before you?

Exam. Trezise: Well, regardless of how it grades, you are not using it now?

The Witness: No.

Exam. Trezise: It wouldn't make any difference how it grades, unless there is something you want to develop from that.

By Mr. Biaett:

Q. Do you have that exhibit, Mr. Rozene?

A. No, I haven't.

Q. On page 3 of Section 4 of Mr. Robertson's Exhibit 4 it shows that the rate from Fulton County to Beloit is 82.2 per cent of the Holmes and Hallowell scale; the rate from Southern Illinois to Beloit is 64.3 per cent of the Holmes and Hallowell scale. Now, taking those percentages for the purpose of comparison, would you say that the rate from Southern Illinois to Beloit is unreasonably high?

A. I couldn't say, if you are using the Holmes and Hallowell scale. I couldn't make any statement as to whether it was high or low.

Mr. Vesey: Who stops you from making that statement?

The Witness: Nobody is stopping me from making it. I am not using the Holmes and Hallowell scale. I don't [fol. 1549] believe in the use of it.

By Mr. Biaett:

Q. Mr. Rozene, you have criticized that scale. Now, we want to know something specific about why you criticize that scale, other than interpreting the Commission's decision.

A. If you will read my testimony shown on pages 28 and 29 of my direct testimony, why, it will probably answer all your questions.

Mr. Stadell: Pages 28 and 29, what you are referring to is a prepared statement of your direct testimony which you read, is that right, yesterday?

The Witness: Yes, sir.

By Mr. Biaett:

Q. Do you know whether or not the Holmes and Hallowell scale grades upward at a sufficient rate of gradation from 160 miles to take care of this difference in percentage of that scale which I gave you?

A. No, I don't.

Q. Mr. Rozene, I show you Exhibit No. 13 in these proceedings, which is a reproduction of the Holmes and Hallowell scales prescribed in 69 ICC 11.

A. What are the mileages you are speaking of?

Q. 160 to 400 miles.

A. Well, the rate at 400 miles is $3.61. The rate at 160 miles is $2.00. That is a difference of $1.61. Now, what do you want to know?

Q. You have a difference in distance of 240 miles?

[fol. 1550] A. Yes, sir.

Q. Well now, going back to this fact, the rate from Fulton County to Beloit is 82 per cent of the Holmes and Hallowell scale, and the rate from Southern Illinois to Beloit is 64 per cent of that scale. Now, if that is not a proper gradation in the rates, will you tell me what is wrong with the gradation?

A. I am not saying anything about the gradation of the rates from Fulton County and Southern Illinois to Beloit.

Q. Well, I am asking you about them.

A. I haven't testified about the gradation of the rates.

Mr. Vesey: If the Examiner please, I just understood the witness to give him the normal differential between the two as $1.61, isn't that correct?

The Witness: I gave him the difference in the Holmes and Hallowell scale between 160 miles and 400 miles.

Mr. Vesey: Yes.

By Mr. Biaett:

Q. Well, I want to know about this gradation. Would you say that the fact that Southern Illinois is 18 percentage points lower of the Holmes and Hallowell scale to Beloit is justified by the gradation in the Holmes and Hallowell scale to which you have referred?

Mr. Stadell: I will have to object to that question, if the Examiner please, on the ground that there is no issue in these proceedings with respect to the relationship between the rates from Southern Illinois, on the one hand, and Fulton [fol. 1551] County on the other, to Beloit.

Mr. Vesey: I would like to join in that objection on the ground that this line of cross examination is now superfluous in view of the fact the witness already testified as to what would be the normal differential between the two, namely $1.61.

Mr. Stadell: Oh, no, that isn't right.

Exam. Trezise: Well, I think if the witness has in mind an answer to this question, which seems to be relatively simple, he could answer that. He is supposed to be skilled in the rate business. Now, do you have an answer to that question?

The Witness: I have told Mr. Biaett that we haven't used the Holmes and Hallowell scale in connection with any of our rates, and I would have to study this before I could give you a definite answer.

By Mr. Biaett:

Q. We have used the Holmes and Hallowell scale in our exhibits, and you said it was not proper. I want to know why it is not proper.

A. I have told you in my direct testimony.

Q. Yes, but you are just generalizing. I want to know specifically what is wrong with those rates, if anything is wrong with them. I can take every group and compare it with Southern Illinois, but I was just taking one to make it as simple as I could.

Mr. Vesey: Mr. Examiner, Mr. Biaett says that is what he wants. He got the specific answer as to what the normal [fol. 1552] differential would be.

Mr. Biaett: I don't believe this is your witness, Mr. Vesey.

Mr. Vesey: Well, I have an interest in this witness.

Exam. Trezise: Well, I think we will let the witness answer, either about any fraction of the multiplication table or any percentage of any particular rule, or you can use the Holmes and Hallowell scale which is not applied any place at the present time, as I understand.

Mr. Stadell: May I ask a question of Mr. Biaett just to get the question that he has asked clear.

Exam. Trezise: Go ahead.

Mr. Stadell: Your question relates solely, as I understand it, Mr. Biaett, to the relative levels of Fulton County versus Southern Illinois to Beloit?

Mr. Biaett: That is correct.

Mr. Stadell: As measured by that scale as shown in your exhibit?

Mr. Biaett: Yes.

Mr. Stadell: In other words, you are not talking about the intrinsic level of the rates from either group to Beloit?

Mr. Biaett: That is correct.

Exam. Trezise: Then what is your question?

Mr. Biaett: My question is, Mr. Rozene takes the position, Mr. Examiner, that the interstate rates to Beloit and other [fol. 1553] Wisconsin points which we are using for comparative purposes are unreasonably high. Now, I have shown him under the Holmes and Hallowell scale the rate from Fulton County is 82 per cent of that scale and the rate from Southern Illinois is 64 per cent of that scale. Now, by comparison, I want to know if, in view of the fact that the rate from Southern Illinois is 18 percentage points lower than the rate from Fulton County to Beloit, there is anything wrong in the gradation of the rates. He has said that the scale grades upward.

Exam. Trezise: Now, can you answer that question?

The Witness: I can't answer without going into this thing by these two specific points. Now, you are using the Holmes and Hallowell scale here for measuring rates that are of unequal hauls, and as I have stated in my testimony, we don't think it is proper to use that scale when there are unequal hauls involved.

By Mr. Biaett:

Q. Because the scale grades upward from 160 miles?

A. That is a matter that you have to explain. I can't explain it. I can't pick them out individually. There are thousands of rates here.

Q. All right. Do you see anything wrong in the fact that the rate from Fulton County to Beloit is 82 per cent of the scale and the rate from Southern Illinois to Beloit is 64 per cent of the scale?

[fol. 1554] Mr. Vesey: I object. The witness said already he couldn't answer it because he didn't study it.

Exam. Trezise: Do you wish to answer that again?

The Witness: I will have to answer it the same way.

Exam. Trezise: Well, same answer.

The Witness: Same answer.

Mr. Biaett: What?

The Witness: That I haven't gone into this thing.

By Mr. Biaett:

Q. Well, you have gone into the rates from Fulton County and Southern Illinois to Beloit, haven't you?

A. No, I haven't said a thing about Beloit in this case specifically. I have talked generally.

Exam. Trezise: And if you did go into it, would you measure the propriety or the impropriety of those two rates by the percentage of the Holmes and Hallowell scale as a guide for determining your conclusion?

The Witness: No, sir, I would not.

Mr. Vesey: Let me ask a question now, in view of that. How do you know what you would do since you haven't made the study?

The Witness: We never used the Holmes and Hallowell scale in any of our studies, so that is why I wouldn't use it here.

By Mr. Biaett:

Q. Is your recollection of prior cases very good, Mr. Rozene? Do you mean to say you haven't used the Holmes and Hallowell scale for comparative purposes in any case?

[fol. 1555] A. Not recently, no. Since we have found out the infirmities of it, we have discarded it, and since we have got something that the Commission has handed us or pre-

scribed, which is the Midland scale or the 23922 scale, we use that because we think they are more proper than the Holmes and Hallowell scale.

Q. Then although you are telling the Commission, Mr. Rozene, that you should disregard the Holmes and Hallowell scale, we shouldn't use any comparisons with that scale, you are not able to tell the Commission just what the very instant gradation in that scale is?

A. I think that has been gone through in so many cases and the Commission has commented on it, it would be unnecessary to put it in this case. You can read case after case where the Commission has commented on the gradation of the Holmes and Hallowell scale.

Q. Now, because of that gradation, I take it, that it is your position that the rates from Southern Illinois should be on a lower percentage of the Holmes and Hallowell scale than the rates from the shorter distance groups?

A. No.

Mr. Vesey: I object to that on the ground that he has made a previous answer on that.

Exam. Trezise: Well, the witness answered the question. I will let it stand.

Mr. Biaett: What did the witness say?

[fol. 1556] The Witness: I said no, I haven't used it. I didn't say anything about it.

By Mr. Biaett:

Q. If you don't know anything about the Holmes and Hallowell scale, why did you spend three or four pages of your prepared statement on it?

Mr. Vesey: Mr. Examiner, I object. Time after time this witness has answered that question. Why do you have to keep pressing him? We have got a clear cut answer to the question.

Mr. Biaett: What is the answer?

Mr. Vesey: He hasn't made the study. He doesn't know.

Mr. Biaett: Then I move to strike all of Mr. Rozene's reference and criticism to the Holmes and Hallowell scale if he doesn't know anything about it.

Mr. Vesey: I object to that.

Mr. Stadell: That isn't his statement. He didn't state that.

Exam. Trezise: The motion is overruled. Will you ask another question, Mr. Biaett.

Mr. Biaett: I want an answer to the same question, Mr. Examiner.

Exam. Trezise: Now, you may have the answers. The Examiner doen't understand what answer you want. I want to be fair with you.

Mr. Biaett: Mr. Examiner, what I want to know is this: Mr. Rozene says that it was an improper gradation in that [fol. 1557] scale, and we have a lot of comparisons with the Holmes and Hallowell scale in our exhibits; now, we want to know just where that improper gradation is and how much it is.

Mr. Vesey: If the Examiner please, the witness said he hadn't made the study to give that. Now, it is just too bad he hasn't made that study.

Mr. Kaier: Mr. Witness, do you concur in Mr. Vesey's statement that you have said you have not made the study which would be necessary to answer these questions put to you by Mr. Biaett?

Exam. Trezise: The witness has already stated that there was a break. While he said he didn't know about the Holmes and Hallowell scale, he apparently does know probably as much or more than any of us about it. That is the Examiner's statement from past experience. Now, there is a break—what is it, did you say, 160 miles?

The Witness: Yes, there is a break. Now, I haven't made a study of this scale in recent years to be able to answer it the way it should be answered. Now, if you will give me time to study it out and work it all out, I will be glad to answer any question. But I can't do it because I haven't made a recent study of it. However, you don't have to make any study of it. All you have to do is read some of the Commission's decisions. It is the volumes of the recent decisions of the Commission, regarding the Holmes and Hallowell [fol. 1558] scale. You don't have to develop that here. If you had adhered to some of those decisions, you probably wouldn't have used it yourself.

Exam. Trezise: Let us not argue.

By Mr. Kaier:

Q. Mr. Rozene, is it a fact that while you offer a general criticism of the Holmes and Hallowell scale and its pro-

gression and object because of that general criticism to its use as a comparison, you have not made a study which is sufficient for you to say that the rate comparisons offered by the respondents in this case with the use of the Holmes and Hallowell scale are subject to the general criticism of the scale which you made?

A. Yes, I would say that they are, because the Commission, in my opinion, the Commission has discarded the Holmes and Hallowell scale for use as a yardstick in this territory when they prescribed the Midland scale.

Exam. Trezise: All right. Now, just give us your testimony.

By Mr. Kaier:

Q. In other words, can you relate those criticisms, which you say the Commission made, of the Holmes and Hallowell scale to the use which the respondents here make of the Holmes and Hallowell scale?

A. No, I can't.

By Mr. Biaett:

Q. Although that scale grades upwards from 160 miles, Mr. Rozene, you take a group which is substantially the same distance from Beloit as Southern Illinois and compare [fol. 1559] the percentages of the Holmes and Hallowell scale from Southern Illinois and that other group to Beloit, would those criticisms which you have made apply to the Holmes and Hallowell scale in that particular instance?

A. It depends on the distance from that other group.

Q. Say it is the same identical distance, down to a tenth of an inch.

A. You would use it. I wouldn't use it. I wouldn't object if both groups were 400 miles. Go ahead and use it. I wouldn't use it.

Q. Then the criticisms which you pointed out wouldn't apply to that situation?

A. I criticize the scale to the extent it shouldn't be used for unequal hauls, and you have unequal hauls here.

Exam. Trezise: Well, Mr. Rozene, you do use it for like hauls and you do think it is a proper rule, just the same as I say some other scale might be. So don't say that you would discard it for similar distances, as a rule.

The Witness: He wants me to approve it for equal hauls, and after I approve it for that he will come along and try to stretch me out.

Exam. Trezise: Mr. Rozene, you have said in answer to the Examiner's question that it could be used as a tape measure with its varying or alleged disproportionate notches to test one rate with another. Now, you have said that.

[fol. 1560] The Witness: Oh, it can be used, but I am not advocating the use of it.

By Mr. Biaett:

Q. Now, will you take unequal distances, that is, the rate from one group which is shorter distant than Southern Illinois, how irregular is the gradation of the Holmes and Hallowell scale?

A. I don't understand your question, Mr. Biaett.

Q. Well now, what I want to know is how much in error are our exhibits. That is what I want to get, your opinion on that, since we have used the Holmes and Hallowell scale.

Mr. Kaier: He said he didn't know about that.

Exam. Trezise: Well, have you testified about the errors in that?

The Witness: No, I haven't.

Exam. Trezise: We will take a recess for a few minutes.

(Recess taken.)

Exam. Trezise: All right, gentlemen, when you are ready, let us continue. Any further questions?

By Mr. Biaett:

Q. Mr. Rozené, I believe you stated that you had used the 23922 scale in your exhibits?

A. Yes, I have used it in some places.

Q. Do you know the distance for which that scale was prescribed?

A. 300 miles, I believe.

Q. Now, are there any distances from Southern Illinois to either the suspended or comparative points used in the car-

[fols. 1561-1562] riers' or your exhibits which are 300 miles or less?

A. From Southern Illinois?

Q. Yes, sir.

A. I would have to look and see.

Q. Go right ahead.

A. May I ask, are you speaking of average distances or individual distances from certain points?

Q. The average distance from the Southern Illinois Group to the individual points.

A. No, there isn't; on the shortest tariff route distances, there isn't.

Q. Now, do you think it is more proper to use a scale which was prescribed for a distance of only 300 miles in comparing rates from Southern Ilinois than using the Holmes and Hallowell scale which was prescribed for a distance of 650 or 700 miles?

A. Certainly I do.

Q. Even though you have to extend that scale?

A. Yes, sir. That is all we have and that is all we can do.

Q. Now, Mr. Rozene, you said that you hadn't made a study of this scale. Before the hearing closes will you be able to make a study of this scale, so the Commission will be informed of the gradation above 160 miles and the extent of that?

A. Of the Holmes and Hallowell scale?

Q. Yes, sir.

A. Why, yes, I could make a study of that.

[fol. 1563] By Mr. Biaett:

Q. Will you turn to your Exhibit 29, please, Mr. Rozene, [fol. 1564] the rates to Rockford from the Illinois and Indiana Groups, on page 6.

A. Yes, sir.

Q. On that exhibit you show that the average rate from twelve Illinois Groups to Rockford is 81 per cent of the Midland Electric scale. That is correct, is it not?

A. No. I show 13 points and the suspended rate is 81 per cent, the average is 81 per cent of the scale.

Q. The suspended rate?

A. Yes, and it is from 13 points instead of 12, as you state.

Q. And from the Indiana Groups which you show, the suspended rates average 74 per cent of that scale?

A. Yes, sir.

Q. Now, the Indiana Groups which you take, the five principal ones, Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire, Boonville and Evansville, take the average per-

centage of those scales from those groups to Rockford and compare that to the average level from Springfield, Centralia, Belleville, DuQuoin, and Southern Illinois, instead of a variation of 81 and 74 per cent, would you not get a substantial equality of approximately 74 per cent?

A. I couldn't answer that without figuring it out.

Q. In any event, if you take only the five Illinois Groups which I named, you will get a lower percentage of the Midland Electric scale, will you not?

[fol. 1565] A. Again, I would say I would have to figure it out.

Mr. Kaier: It is shown right on page 6 of your exhibit, Mr. Rozene.

The Witness: He is talking about averages, Mr. Kaier, and it doesn't show the average with those points out.

By Mr. Biaett:

Q. Would you compute the average for those five groups I have named?

A. Which ones?

Mr. Stadell: What is the purpose of that? Why don't you compute it and put it in as a part of your case, if you want it. The figures are there. You can do any computing you want to.

Mr. Biaett: Mr. Examiner, that is the basis for a subsequent question. I have computed it.

Exam. Trezise: Well, give him your computation.

Mr. Biaett: I compute that you will get 74 per cent from the five Illinois groups and 74 per cent from the Indiana groups.

The Witness: What groups were those, again?

Mr. Biaett: Springfield, Centralia, Belleville, DuQuoin and Southern Illinois.

The Witness: Why do you select those?

Mr. Biaett: I selected them, Mr. Rozene, for the simple reason they are the five most southerly points to compare with the Indiana groups.

[fol. 1566] The Witness: Why do you exclude Danville?

Mr. Vesey: Mr. Examiner, the question has been asked. I don't see why you should argue it.

Mr. Biatt: Will you compute it both ways? That will suit my purposes.

The Witness: Are you asking me a question?

Mr. Biaett: Yes.

The Witness: I will check those with you, and you want me to compute those to find out what the average would be from those groups?

Mr. Biaett: Yes, to the six groups.

Mr. Stadell: Well, I don't see the relevancy of the computation, Mr. Examiner, and I object to it.

Exam. Trezise: Well, you can put that in, Mr. Biaett, and if you want to ask him a question, tell him what you have calculated as a hypothetical proposition, and get the answer.

By Mr. Biaett:

Q. Mr. Rozene, if you take the average percentage of the Midland Electric scale from Springfield as 76 per cent and Centralia of 74 per cent and Belleville of 71 per cent and Du Quoin of 77 per cent and 76 per cent, and from Southern Illinois of 72 per cent, would the average of those be substantially the same as the 74 per cent you show for the Indiana groups?

A. I couldn't answer that without checking them up. It is just a matter here of adding that column up and dividing it. You can take any factor out of it and eliminate it and [fol. 1567] you can get a certain result. Now, I have added them all up. Now, I can't sit here and take out certain ones and tell you right at snap judgment what the result would be, because I wouldn't know. I would have to put it on a machine, or I can sit here and figure it out if you want me to.

Exam. Trezise: All right, let us assume that it would be substantially that, without further proof. Now, ask him the question that follows that.

By Mr. Biaett:

Q. Then, Mr. Rozene, the higher level of the rates from the Illinois groups to Rockford as compared with the Midland Electric scale is achieved by the use of the more northerly groups, such as Fulton-Peoria, Northern Illinois, Atkinson, Victoria and Alpha, is it not?

A. You say it is achieved, yes; but we have also got very long circuitous routes, as I pointed out, from Southern Illinois, that is very material in that computation.

Q. Leaving that out of the answer, what is your answer?

A. Well, yes. I have just taken all of them as shown in the exhibit.

Q. Mr. Rozene, in speaking of the Lake Dock Coal Cases, and in pointing out that the order in the Lake Dock Coal Cases has been vacated, did you intend to leave the impression that that was the only decision of the Commission in which the rates from Southern Illinois to Wisconsin had been approved?

A. We have had several cases, not since then—yes, [fol. 1568] one since then; they have prescribed rates to Janesville, Fort Atkinson, from Illinois.

Q. Are you familiar with the decision of the Commission in Illinois Coal Traffic Bureau versus Alton & Eastern Railroad, 164 ICC 543?

A. What is the docket?

Q. I can't give you the docket number.

A. When you say 164, is that 20912, is that the docket you speak of?

Q. I am not certain of the docket number. Maybe I have it here. Yes, that is docket No. 20912.

A. Yes, I am familiar with that.

Q. Are you familiar with the decision of the Commission in Coal From Illinois, Indiana and Kentucky, Investigation and Suspension Docket No. 3536?

A. Is that the case following this 20912?

Q. Yes.

A. Yes, sir.

Mr. McElroy: What is the reference to that?

Mr. Biaett: 174 ICC 545.

By Mr. Biaett:

Q. Can you tell me if the rates from Southern Illinois to points in Southern Wisconsin were involved in both of those proceedings?

A. I believe they were. Yes, they were.

Q. Can you tell me if the reductions which the Illinois carriers have made in the rates from Southern Illinois to [fol. 1569] Beloit, Janesville and Burlington, Wisconsin, were suspended by the Commission and ordered placed upon the level in which they had been prescribed in the Lake Dock Coal Cases?

A. They were suspended, but I don't know as to the points that you mentioned.

Q. The Commission refused to permit reductions from Southern Illinois to points in Southern Wisconsin, didn't they?

A. They refused them, and in the I. & S. case it was pointed out, in this 3536, it was pointed out that the Southern Illinois rates were related to the docks, and they couldn't reduce the Southern Illinois rates without reducing the dock rates because there was a relationship there. But since then the Commission has vacated its order in the original Lake Dock cases, and if that had been vacated at that time I don't believe there would have been any question about the rates going in. Due to that order, which they have since vacated, they refused to reduce the rates in Illinois for that purpose.

Q. Is it your position the rates from Southern Illinois to points in Southern Wisconsin are intrinsically unreasonable or unreasonable per se or that they are unduly prejudicial to Southern Illinois because they haven't been reduced to the same extent that the docks have been reduced?

A. Yes, I believe they are, for this reason, that as I stated, in 20912 they had the relationship with the docks and the only reason they didn't permit the reduced rates [fol. 1570] to go in was because of the order in the Lake Dock Coal Cases. If that order hadn't been in, I believe the rates prescribed in 20912 would have been published.

Q. Will you agree if the rates had been unreasonable per se or intrinsically unreasonable, the Commission would not have permitted their establishment, irrespective of their relationship with the docks?

Mr. Stadell: I object to that question as to what the Commission would have done.

Exam. Trezise: He has already explained his view on that.

Mr. Biaett: Not on that particular question.

Exam. Trezise: As to what the Commission would have done, well, let us not ask what the Commission would have done.

By Mr. Biaett:

Q. Is it your position that the rates from Southern Illinois to Southern Wisconsin are unreasonable per se?

A. In and of themselves?

Q. Yes, sir.

A. Yes.

Q. On what do you base that opinion?

A. Why, on the rates that they have prescribed to Janesville, Fort Atkinson, other points.

Q. From what groups did they prescribe rates to Janesville and Fort Atkinson?

A. All of the Illinois and Indiana groups.

[fol. 1571] Q. Didn't they just prescribe rates to Janesville and Fort Atkinson from the Fulton-Peoria Group?

A. They prescribed that as a base group, yes. To clarify that statement, they did prescribe the rates from the base group, but there was no differential situation involved there. So, naturally, the differentials over Fulton County continued and the rates were reduced from the other fields by the same amount as from Fulton County.

Q. Your position is because the Commission prescribed a rate from Fulton County to Fort Atkinson, the rates from Southern Illinois and these other groups to points in Southern Wisconsin are unreasonable?

A. I believe the differential is too high there.

Q. Then that is a question of relationship, isn't it, Mr. Rozene?

A. Yes.

Mr. Biaett: That is all I have right now, Mr. Examiner. However, I am making a check of one of Mr. Rozene's exhibits and I would like to reserve the right to cross-examine him later on.

Exam. Trezise: He will probably be here Monday morning.

The Witness: The last exhibit we discussed was 29 and probably everybody has it before them. I would like to show a correction in there or make a correction on that exhibit.

Mr. Zoll: While you are at it, will you fill out the blanks in [fol. 1572] front. If you did it before, I didn't catch it.

The Witness: Exhibits 27 and 28.

Mr. Stadell: That is Exhibit No. 27 should be entered in the first blank space on the bottom of the title page of Exhibit 29?

The Witness: Yes.

Mr. Stadell: And Exhibit No. 28 in the second blank space?

The Witness: That is correct. On page 7 of this exhibit, line 41, column E, it reads 368; it should read 386; and on line 42 in column E, it now reads 268, and it should read 368.

Exam. Trezise: Is that all?

The Witness: That is all.

Mr. Biaett: Does that change your totals?

The Witness: No. That is just a typographical error there.

Exam. Trezise: Mr. Hunter.

By Mr. Hunter:

Q. Mr. Rozene, your exhibits 25, 26 and 29, and perhaps others, compare rates or compare the level of rates within Illinois, from Indiana to Illinois, and from Western Kentucky to Illinois, on the basis of earnings per ton mile, the 26558 or the Midland Electric scale, and you do not use when making these comparisons the rates from the individual groups, but you treat each state as a whole. In other words, you include short haul rates which reflect high revenue ton miles with rates from the Southern Illinois group, for example, having much longer mileages and correspondingly lower ton mile earnings. Now, are we to [fol. 1573] understand from this presentation of yours that you are advocating the same revenue ton miles for all rates regardless of the distances involved?

A. No, I am not.

Q. Are you then advocating that rates be made on a state basis?

A. On a what basis?

Q. On a state basis.

A. State?

Q. Yes, that is, Illinois be treated as a single origin group, Indiana as an origin group, and Western Kentucky as an origin group and the same ton mile rates to apply from each of the states?

A. No.

Q. Well, Mr. Rozene, should not the groups of comparable distances in each state be the proper basis of comparison? For example, you have a group in Illinois 300 miles distant; you have a group 300 miles distant in Indiana.

Would it not be proper to compare the rates from those respective groups with each other?

A. I have done that.

Q. Yes. I refer you in that connection, Mr. Rozene, to page 6 of your exhibit 23, if you will refer to it, and I refer you to the rates shown from the Springfield Group, line 10, with present earnings per ton mile of 7.1 mills, and the suspended rates with earnings per ton mile of 7.5 [fol. 1574] mills. That is to Forreston, Illinois. Now, in line 22, from the Brazil-Clinton Field, mileage 252 miles, you have present per ton mile revenues of 7.1 mills and under the suspended rates 7.5 mills. What is wrong with comparing the Brazil-Clinton Group with the Springfield Group?

A. Well, Mr. Hunter, you are directing my attention to two unlike things. For instance, you take the distance from the Springfield Group of 255 miles. Well, in other words, that is an average from all the origin points in that group. While from Brazil-Clinton that is only from two or three or four mines on the St. Paul. That doesn't apply from the entire group.

Exam. Trezise: Why didn't you give us all of them?

The Witness: Because this is a study of the carriers' exhibit and it is their figures.

By Mr. Hunter:

Q. Well, look at the other earnings there, Mr. Rozene. Look at line 23. You have 266 miles. You have the same earnings. Also look at line 24. You could take all of them. I don't know why you put them in three different groups, but you have the identical earnings, all of the mines, the same revenues, the same returns.

The Witness: Well, I can't understand either why we have three groups there, but that is what you have and that is the only way I could——

Q. Well, isn't that a proper basis of comparison, that is [fol. 1575] my point I am trying to make. Is there anything wrong with comparing a group 300 miles distant in Illinois with a group, for example, 300 miles distant in Indiana?

A. No. If you had said that, I could have answered that right away.

Q. All right. I have just asked that, and in view of that answer, what was your purpose in introducing your Exhibit 25 comparing the rates on a state basis?

A. Well, there is a 13th Section petition before the Commission here and I want the record to show what the level of the rates were in Illinois, and there they are as the railroads have computed them from their figures.

Mr. Hunter: That is all. Thank you.

Exam. Trezise: Do we have any more questions? It is about time to adjourn, and if there is no objection, we will adjourn until 10 o'clock Monday morning.

(Witness excused.)

(At 12:00 o'clock noon, September 25, 1943, adjourned to 10:00 o'clock A. M. September 27, 1943.)

[fol. 1576] Morrison Hotel, Chicago, Illinois,
September 27, 1943.

The hearing resumed pursuant to adjournment, at 10:00 o'clock, a. m.

Before R. N. Trezise, Examiner; F. B. McElroy, Illinois Commerce Commission.

APPEARANCES:

As heretofore noted.

PROCEEDINGS

Exam. Trezise: All right, gentlemen, when you are ready, we will continue.

HARRY A. ROZENE resumed:

Cross-examination (Continued):

Exam. Trezise: I want to ask you a few questions, Mr. Rozene.

The Witness: Yes.

By Exam. Trezise:

Q. Mr. Rozene, in making percentages of the Holmes and Hallowell scale in your exhibit, did you use the Holmes and Hallowell scale as prescribed in 69 ICC 11 plus 15 cents general increase for the distances you have used?

A. Yes, I used the 15 cent increase over this scale, original scale as prescribed in 69.

Q. Do you recall whether the Commission prescribed the [fol. 1577] route over which the traffic must move under the Holmes and Hallowell scale?

A. They did not.

Q. They merely prescribed the method for making the rates?

A. Yes, sir.

Q. Did the Commission prescribe the route over which shipments must move under the Midland Electric scale to Iowa or under the Sioux Falls, South Dakota, Chamber of Commerce cases?

A. No. They prescribed the method which should be used.

Q. Are there any single line routes from Illinois to Iowa?

A. Yes, sir.

Q. Does the Burlington have a single line route to destinations on its line in Iowa?

A. Yes, sir, they do.

Q. Does the Burlington serve Duluth or the Head-of-the-Lakes?

A. No.

Q. Then any movement from Duluth or the Head-of-the-Lakes would be a single line to Burlington points in Iowa, is that correct?

A. No, sir, not from Duluth.

Q. That would be a joint line?

A. Yes, sir.

Q. And it would be a single line from Illinois to Iowa?

A. Yes, sir.

Q. Or the other destinations that may be on the Burlington?

A. Yes, sir.

[fol. 1578] Q. Does the Illinois Central have a single line route from Illinois to destinations in Iowa?

A. Yes, sir, they do.

Q. Does the Illinois Central serve Duluth or the Head-of-the Lakes?

A. No, sir.

Q. Then any movement from Duluth or the Head-of-the-Lakes to destinations locally on the Illinois Central in Iowa would be a joint haul and a hauf from Illinois to Iowa would be a single line haul, is that correct?

A. That is correct, yes, sir.

Q. The Illinois Central also serves Sioux Falls, South Dakota, does it not?

A. Yes, sir.

Q. Are there any single line routes from Illinois to Iowa destinations such as over the Rock Island, the Wabash, and the M. & St. L.?

A. Yes, sir.

Q. Without making an exhaustive investigation, would you be able to say that there are more single line routes to destinations in the destination territory you mentioned in your exhibits, such as Iowa and South Dakota and so forth, from Illinois than from the Head-of-the-Lakes?

A. Well, I would say offhand there would be more single line routes from Illinois than from the Head-of-the-Lakes.

[fol. 1579] Exam. Trezise: Are you ready, Mr. Wilkinson?

Mr. Wilkinson: Yes.

By Mr. Wilkinson:

Q. Mr. Rozene, on page 3 of your prepared statement, next to the third from the last paragraph, you state, as I understand it, that the destinations involved in these proceedings are the same as the destinations involved in 23130, the 13th Section case?

A. As I stated, some of them are in these cases.

Q. Well, that is what you meant by whatever is stated in that paragraph, that some of them are the same?

A. Yes. There are other points in Illinois besides Rockford and Freeport involved in 23130.

Q. And there are other points in this case where the rates are involved that were not involved in 23130, is that true?

A. That were not involved in 23130?

Q. That were not involved in 23130.

A. Well now, in 23130, that took in practically the whole state of Illinois, and it took in a list of intermediate points. In other words, in 23130 they picked out specific points as key points, as they have done in this case, and I couldn't say whether there are some involved here that were not involved in 23130.

Q. So by your statement on page 3 you did not intend to create the idea that all of the points that were involved in 23130 are involved in this case, and vice versa, that all

[fol. 1580] of the points involved in this case were involved in 23130?

A. Not right up in this territory, because as I stated, there were other points, such as Champaign and Decatur, involved in 23130 that are not involved in this case. But I would say from a general standpoint, it takes in the territory involved in 23130.

Q. Generally?

A. Yes, sir, generally.

Q. Now, you spoke about the reduction in the rates from the mines on the Milwaukee Railroad in the Brazil-Clinton and Linton-Sullivan Groups in Indiana to Rockford and Freeport after the decision in Docket 23130. You did not mention the rate from the Illinois Central mines in the Linton-Sullivan District to Rockford and Freeport. Do you know when those rates were reduced to the same level as the rates from the Milwaukee mines?

A. No, I couldn't give you the exact date, Mr. Wilkinson, but I think they were reduced after the St. Paul mine rates were reduced.

Q. And they were reduced to the same level as the St. Paul mine rates from the Linton-Sullivan District to Rockford and Freeport, is that right?

A. I think they were, yes.

Q. Do you have any idea as to the length of the haul via the Illinois Central from its Linton-Sullivan mines to [fol. 1581] Rockford as compared with the haul of the Milwaukee Railroad from its mines in the Linton-Sullivan District to Rockford?

A. Well, relatively, offhand, I would say probably that the Illinois Central mileage was longer.

Q. It is really considerably longer, is it not?

A. I couldn't say how much. I might be able to develop that specifically.

Q. Well, if you don't know——

A. I don't know offhand. It is in the exhibits. It could be determined very easily.

Q. Are any of those mines of the Illinois Central and the Milwaukee in the Linton-Sullivan District joint mines?

A. My exhibit will show that. I will have to look. Yes, there is a joint mine down there.

Q. So that when you figured your shortest tariff route from those mines——

A. Those mines, you mean the joint mine?

Q. Yes, from the joint mine, one where a mine is served by the Milwaukee and a mine is served by the I. C.—you used the distance via the Milwaukee Railroad, I assume?

A. I used the shortest, the same as I did in Illinois, from any joint mine in Illinois, the same identical method.

Q. Yes, but I say it was the distance via the Milwaukee Railroad?

A. To which point?

[fol. 1582] Q. Rockford, I am talking about Rockford now.

A. Yes, I used the St. Paul route.

Q. Now, are there any mines in the Linton-Sullivan District that are joint to the Milwaukee and the Pennsylvania?

A. Same point, Linton.

Q. What?

A. Same point, Linton.

Q. Let me ask you this: are there any mines joint to the Illinois Central and the Pennsylvania, that is, where you have a high rate and a low rate?

A. Yes, Linton, the one we are speaking of.

Q. Where you had a mine that had the low rate via one carrier and the short distance via another carrier with the higher rate, which one did you use as the shortest tariff route, the one with the lowest rate or the one with the shortest haul?

A. I used the one with the lowest rate uniformly throughout Illinois and Indiana.

Q. Irrespective of the length of the haul?

A. Yes, sir, I had to do that to get the proper level of the going rate.

Exam. Trezise: From the individual mine?

The Witness: Yes, sir.

Mr. Wilkinson: I understand this is just individual mines that are joint.

The Witness: Yes, sir.

[fol. 1583] By Mr. Wilkinson:

Q. Now, on page 4 of your prepared statement, I understand from the fourth paragraph, that your feeling is that the level of the rates generally from Indiana to all of the territory in Northern Illinois — substantially lower than the level of the rates from the Illinois origin groups to the same territory?

A. Yes, my exhibits show that conclusively.

Q. And that is your principal reason for complaining about these rate situations, is that it? That is the principal reason, because you claim that the level from Indiana to these destinations is lower than the level of the rates from the Illinois origins to these destinations?

A. That is right, yes.

Q. And your subsequent exhibits are for the purpose of demonstrating that alleged fact?

A. They do show it.

Q. Now, will you look at your Exhibit No. 23, page 21, and in the last column J thereon you show that on the average the rates from the Indiana groups to Dubuque, Iowa, are 96 per cent of the 23922 scale.

A. Wait a minute. You said Indiana. I think if you mentioned 96 per cent it didn't cover Indiana—oh, yes, it, does too. Pardon me. I see, yes, sir, that is right.

Q. Then you show just below that, that the rates from Western Kentucky average 102 per cent of the 23922 scale. [fol. 1584] A. Yes, sir.

Q. Then in the following line you combine Indiana and Western Kentucky and you show that together they are 89 per cent of that scale. Now, what mathematical formula did you use to arrive at the result that by putting 96 and 102 per cent together you got 89 per cent?

A. Well, I don't know whether that is an error or not, but I will tell you how I arrived at it. It may be an error. But I took all of the rates shown on this page from Indiana, there are ten Indiana rates, and two Kentucky rates. That makes twelve. I added those percentages up and divided them by 12. That is the method I used, and I did that throughout all my exhibits. Now, that 89 does look a little off, but I will be very glad to check back and see what it should be. If it is an error, I want it corrected, because I want the facts to be in here as near positively correct as they may be.

Exam. Trezise: That appears to be an error. You will check that.

The Witness: I will be glad to check that.

By Mr. Wilkinson:

Q. Now, when you arrived at that 96 per cent on the average, you did it, you say, by adding the percentages shown in the last column and then dividing by the number of rates?

A. That is right.

Q. Now, how did you arrive at the average rate and dis-
[fol. 1585] tance shown in your Exhibit No. 29? Now, I believe Exhibit No. 29 corresponds generally with Exhibit No. 23 and Exhibit No. 24, does it not?

A. Yes, sir.

Q. Over on page 14 of Exhibit No. 29 there is shown average rates and average distances and average earnings per ton-mile and average per cents. Now, how did you arrive at the average rate from the Illinois origins to the 12 suspended points, which you show here as $1.83?

Mr. Cardy: What page was that, Mr. Wilkinson?

Mr. Wilkinson: Page 14 of Exhibit 29.

The Witness: Well, just before I answer that question, Mr. Wilkinson, I want this to be clear, that you have talked previously about one particular destination, you remember that, Dubuque.

Mr. Wilkinson: Yes.

The Witness: You were talking about individual destinations then.

Mr. Wilkinson: Yes. I am asking a new question now.

The Witness: Now we are talking about 12 destinations. I took each individual page—for instance, we go back to Amboy on page 1,—I took the total of each column. As I have shown at Amboy, on page 1, there are 14 points that constitute ay in the last column a total of 1212. I did that from each page, and when I got all of those totals and
[fol. 1586] all of the number of points, I divided it, and that is how we arrived at our averages.

By Mr. Wilkinson:

Q. Now, I was asking you about the rate. I asked you not about the percentages or anything like that. I asked you about this $1.83 rate that you showed as the average from all of the Illinois origins to all of the suspended points.

A. Pardon me. I thought you were talking about the percentages. I will tell you how we got the rate. If you will refer to my Exhibit No. 27, starting at page 25, to and including 37, I just simply took the totals shown on those pages and the number of origins and divided the total by the number of origins to arrive at the rate.

Q. Now, you didn't treat your rates on page 14 of Exhibit 29 the same as you did the percentages?

A. Identically the same.

Q. Well, you didn't take and add up the 12 rates shown in Column C and divide by 12, did you, to arrive at this $1.83?

A. No, I didn't do that.

Q. But when you came to your percentages of the scale, that is what you did, isn't it?

A. I didn't have any percentages of the scale shown in my Exhibit No. 27.

Q. You didn't?

A. No. There is none in there.

[fol. 1587] Q. Now, when you come to the shortest tariff route mileages, you did not take and add the mileages shown in Column E of page 14 of Exhibit No. 29 and divide by the number of origin points shown there?

A. On page 14?

Q. Yes.

A. No. I arrived at the average mileage the same as I did the average rate. I took the total rate from the Illinois field and divided it by the number of origins and I did the same with the mileage. But understand, these earnings shown on page 14 are not the averages of the rates shown there. You understand that.

Q. I understand that fully. Now, what is your average under the Midland scale on a haul of 270 miles with a rate of $1.83? It is not 80 per cent of the Midland scale, is it?

A. No, I don't think it is.

Q. It is considerably less than 80 per cent of the Midland scale, is it not?

A. I don't know how much less it is.

Q. Well, do you have the Midland scale with you?

A. You misunderstand the exhibit. As I told you, just the sentence before this, these are not the averages of the rates shown. These are the averages of all the totals shown in my preceding exhibits. That is the only way you can get an average. If I had used the method which I think you [fol. 1588] are thinking about here, I would be taking an average of an average.

Q. Isn't that what you have done?

A. No, that is just what I haven't done.

Q. Do you have the Midland scale with you, Mr. Rozene?

A. No, I haven't.

Q. Well, going to your Column F and Column G on page 14 of Exhibit 29, do you have that?

A. Yes, sir.

Q. Could you tell me what the average ton mile earnings are for a haul of 270 miles and a rate of $1.83?

A. Well, offhand, it would be between six and seven mills.

Q. Yes. While you show in line 14 ten mills as the average ton mile earning under present rates to the 12 suspended points from origins in Illinois.

A. No, I do not.

Q. What does that ten mills mean?

A. That ten mills is the average from all of the points in Illinois, all of the rates in Illinois, to these 12 destination points, and it is correct.

Mr. Stadell: Those are actual rates?

The Witness: Those are actual rates.

Mr. Stadell: And not theoretical rates?

The Witness: That is correct.

By Mr. Wilkinson:

Q. What is the $1.83 an average of?

A. That is the average rate.

[fol. 1589] Q. Is that an average of theoretical rates?

A. No, sir. It is an average of all the rates in Illinois.

Q. It is an average of all the rates in Illinois to these 12 destinations?

A. Correct.

Q. And the 270 miles, is that the average of all of the hauls from all of the origins in Illinois to these 12 destinations?

A. Yes, sir.

Q. And the ton mile earnings, if I understand from your calculation just made, of $1.83 for a 270 mile haul, is somewhere between 6 and 7 mills?

A. Will you read the question?

(Question read.)

The Witness: Just forget everything on the page for a moment——

Mr. Wilkinson: Just answer that question.

The Witness: I am going to answer your question. As I stated before, $1.83 for a haul of 270 miles is between 6 and 7 mills. It has nothing to do with this page whatever.

Mr. Wilkinson: I didn't ask whether it has anything to do with the page. I just asked you the question.

The Witness: Well, I want it understood it has nothing to do with this page.

By Mr. Wilkinson:

Q. How do you determine, going back to your thesis on page 4 of your statement, that the level of the rates from [fol. 1590] Indiana *are* higher than the level of the rates within Illinois *are* to this territory, how do you determine the level of the rates?

A. It is very simple. I take all the rates from Indiana and the mileage applying in connection with each one of those rates, find the ton-mile earnings from those rates. When I get all of those computations made, I got a total and I have got so many factors. I just divide the total by the number of factors. Therefore, we get the average. We do that in Illinois, we do that in Indiana, like for like, and I tried to be very fair about it, and that is the way I have done it, I think. Now, avoiding mechanical errors, I think it is a very fair picture.

Q. Do you mean fair or do you mean you have applied a uniform method?

A. Both?

Q. Now, let us analyze this a little. In your method of making your determinations, when you determine the ton-mile earnings from Southern Illinois to any one of these points or to all of these points, you divided the average rate which you had determined from Southern Illinois by the average distance from Southern Illinois, did you not?

A. Are you speaking only of Southern Illinois?

Q. I am speaking just of Southern Illinois.

A. Yes, that is the short method of doing it, because if you did it the other way you would have the same identical [fol. 1591] answer. You have one rate. If there is no variation in the rate, you are bound to get the same answer.

Q. That is from Southern Illinois?

A. From Southern Illinois, and I did that from Princeton-Ayrshire, if they had the same rate.

Q. Now, when you took Southern Illinois, you had one rate and you determined your average distance and divided the rate by the distance?

A. That is right.

Q. Now, when you wanted to find Southern Illinois to all 12 of these points, did you merely add up the 12 rates and

divide by 12, and the same way with the mileage, add the mileage and divide by 12, or did you weight the distances and weight the rates by multiplying the rates by the number of origins in Southern Illinois to each of these 12 points and got the aggregate and then divided it by the total number of origin points in Southern Illinois?

A. That is the only way you could figure it. You have varying factors. You can't take $1.90 and $2.00 and have one lump sum. You have got to take the total and add it.

Q. Now, you have got varying factors, have you not, when you use Alpha and Southern Illinois?

A. Sure, that is why we take the total, just like I did.

Q. Is it not a fact, Mr. Rozene, at Alpha there is one origin?

A. That is right.

[fol. 1592] Q. And under the present rates it gives you a ton-mile earning of 12.7 mills from that one origin point of Alpha to all of these 12 destinations? That is shown at line 2.

A. Yes. I just want to look at the exhibit before I tell you whether it does or not. You are speaking of Exhibit 24?

Q. I am speaking of Exhibit No. 29, page 14, line 2.

A. Yes, 12.7 mills.

Q. Now, in your method of determining the average of ton-mile earnings for the state as a whole, that 12.7 carries as much weight in your average as your 5.8 from Southern Illinois?

A. No, that is just exactly what I am telling you, it doesn't.

Q. Well, add it up.

A. You can add these figures up and you won't get the answer. You have got to take the totals on the other exhibit, as I explained originally, in my Exhibit 27.

Q. Your Exhibit No. 27?

A. That is right.

Q. Now, we will go to your Exhibit No. 27. What page, Mr. Rozene?

A. Well, from 25 to 37, that is the method I used. Now, when you arrive at the ton-mile earnings, you would have to go back to Alpha—take Amboy, you have got 12.1, to Belvidere you have got 7.8.

Q. What exhibit are you looking at now?

A. I am talking about Exhibit No. 29.

[fol. 1593] Q. You are back at 29?

A. Yes. I showed you the method I used in Exhibit 27. Now, in order to arrive at 12.7 that I show here from Alpha, I went back to page 1 and I took 12.1 from Alpha. That is one factor. I took 7.8 to Belvidere. That is two factors. I took 13 mills to Byron. That is three factors. I took DeKalb, and so on. After I got the 13 and 12 total factors, I divided it by the number of factors and then arrived at 12.7. When I got down to the bottom, to the average on line 14, I took all of these total ton-mile earnings from all of the groups, added them together, and arrived at the factors and arrived at 12.7 mills. I don't know how you could do it any other way.

Q. So that on page 14 your 12.7 mills is the aggregate of the mills per ton-mile from Alpha to each of the 12 representative destinations added up and divi ed by 12?

A. That is right.

Q. And that applies to the others, this 5.8 from Southern Illinois is arrived at in the same way?

A. Same way.

Exam. Trezise: Is that the answer you want to make there?

The Witness: I am waiting for the rest of it. If he doesn't go ahead, I will finsh it for him.

Exam. Trezise: You said you divided it by 12 or 13.

The Witness: No, not 12 or 13. I divided it by the number of factors.

[fol. 1594] By Mr. Wilkinson:

Q. You divided it by the number of destinations to which there were rates from Alpha, that is what you did?

A. You are talking about Alpha now?

Q. I am talking about Alpha, yes.

A. Yes.

Q. Now, from Southern Illinois you divided whatever your aggregate was by the total number of these representative points to which there are rates published from Southern Illinois. I just want to make it clear that you didn't use 12 if there were only rates published to 11 of these representative points.

A. If there were only 11, that is all we used. Of course, I wouldn't say I used 12 if there were only 11.

Q. That is what I mean. Now, when you wanted to get the average of the rate from the origin groups in Illinois to these destinations, you didn't add up the rate from Alpha

to Amboy, Victoria to Amboy, Southern Illinois to Amboy, and divide them—we will just take Amboy—and divide that by 12, did you, or by 14?

A. The average rate? No sir, I did not.

Q. When you got your rates, you weighted it by multiplying the rate by as many origin points as there were in the group and then divided the total of that multiplication by the total number of origin points?

A. If you want to look at my Exhibit 27——

[fol. 1595] Q. I am just asking you.

A. I can describe it on page 27 of my Exhibit 27. I show total number of origins in Illinois, total rate, total miles, and I divided it up.

Q. I am trying to find out from you, Mr Rozene, what significance the rate and the distance arrived at as you have done here have in this case, in your oplnion?

A. Well, the average rate, Mr. Wilkinson, in my opinion, has no material—I would never give any average rate any consideration, because in my estimation an average rate doesn't mean anything as far as measuring levels.

Q. And the average distance doesn't mean anything in measuring hauls?

A. Oh, yes, it does; but the reason that the average rate—if it does mean anything to anybody, I will compute the average rate in identically the same way as I did the average distance.

Q. Then having computed the average rate and the average distance for the entire state, you don't think any consideration or attention should be paid to them, is that it?

A. Not the average rate, no, as far as measuring a level.

Q. Well, the average rate has nothing to do with the level of the rates, is that it?

A. No.

Q. And the average distance doesn't have anything to do with the level?

[fol. 1596] A. Very much.

Q. How do you use your average distance of 270 miles from Illinois origins to these destinations? What purpose does it play in this exhibit?

A. Well, it is a matter of information. 270 miles shows you the average distance from all of the Illinois points to the suspended points and it compares them with what the average distance is from Indiana, and I thought maybe somebody would be interested in the average distance from

all of the points to all of the destinations, and there they are.

Q. You thought they might be interested casually in knowing the average of the rates too, although you don't think it has much to do with it?

A. That is right.

Exam. Trezise: But you do attach some importance to the average distance from the individual groups?

The Witness: That is right, certainly.

Exam. Trezise: That is where you attach your importance in making your comparison?

The Witness: Certainly.

By Mr. Wilkinson:

Q. And you think that the average of the averages is much better in determining the level?

A. That is just what I am contending is not proper. Probably before this case is over we might be able to go into this thing a little further as far as averages are concerned. [fol. 1597] Q. In any event, Mr. Rozene, the figures which you show here as averages in line 14 on page 14 of Exhibit No. 29, they are not averages in the same sense of the word?

A. I don't know what you mean by that question.

Q. I mean this, they are not averages of the figures shown above line 14?

A. No. As I told you, they are the average of the totals from all these preceding pages. I might add here, I am sorry I didn't do it, but I had all these totals down, but we didn't have time to cut the sheets, but I have the sheets in the office and if it will eliminate a lot of misunderstanding, why, I will be glad to cut them and put them in here.

Q. That is what I am trying to eliminate, misunderstanding, so we will know exactly what you did and why you did it.

A. I think you know what we did.

Q. I am trying to find out why. I want to know, Mr. Rozene, why the total ton-mile earnings from all of these origins divided by the total number of origins to any given destination would not be the average of your ton-mile earnings from all origins to that destination, the same identical way in which you determined your average mileage from the origins to the destinations and your average rates from the origins to the destinations.

A. You want to know why it wouldn't be?

Q. Yes.

[fol. 1598] A. I can't explain why it wouldn't be. If I know anything about figuring, the only way I can get an average is to take a total. If I want to get an average of a certain number of factors, I add those factors up and divide by the number of factors. That is the only way I know of how to get the average. But I can't pick out two averages and average them together. It would be an average of two or three or four different averages and it doesn't mean anything to me.

Q. Well now, if you took all of your ton-mile earnings from each of the origins in Southern Illinois by other routes that you use to Alpha——

Exam. Trezise: Under every rate.

By Mr. Wilkinson:

Q. (Continuing): —under every rate that you used from Southern Illinois to Alpha, you did the same for DuQuoin and each of the other groups that you used here, added them all up and then divided by the total number of origin points in Southern Illinois, DuQuoin, and so on, and divide that number of origins into your total ton-mile earnings, would you not then have a result arrived at in the same manner in which you arrived at your average rates and your average distances?

A. No. You wouldn't.

Q. Why wouldn't you?

A. Because you are taking unlike things. You say, first take each one of the total ton-mile earnings and divide them by the total number of origin points in Southern Illinois.

[fol. 1599] Q. No, I didn't say that. I said that you take all of your ton-mile earnings for all of your groups and divide by the total number of origins in each of the groups.

Exam. Trezise: Didn't you say Southern Illinois a while ago?

Mr. Wilkinson: I started with Southern Illinois, all the origins in Southern Illinois, all the origins in DuQuoin, and so on, through the Illinois group.

Exam. Trezise: You are still confining it to Illinois?

Mr. Wilkinson: Oh, yes, confining it to Illinois right now.

Exam. Trezise: And you said that is what you did.

The Witness: No, I said that wouldn't be right. He is taking a certain number of factors and then putting in an arbitrary number of divisors.

Mr. Wilkinson: The same number of divisors you are going to have for your rates and mileages.

Exam. Trezise: You are going to have only one rate from each of these mines in the group.

The Witness: Yes, one rate from each mine.

By Mr. Wilkinson:

Q. Mr. Rozene, referring to page 37 of your Exhibit 27, you have the total number of miles from the groups in Illinois to these 12 representative destinations, have you not?

A. Yes, sir.

[fol. 1600] Q. And you have the total of the present rates to those destinations?

A. Yes, sir.

Q. Now, would not dividing that total rate by the total miles give you the total ton-mile earnings?

A. No.

Q. Why not?

A. You have got to get the total ton-mile earnings before you can divide them by anything. That is the only proper way to get it, get your total ton-mile earnings from these 2,339 points and then get your figures.

Q. You haven't got those figures worked out?

A. No. You would get the same answer if you took each group in Southern Illinois. If you got a rate of $2.00, why, figure out your ton-mile earnings from each of the points, and you get the same answer, if you divide it by the average from the Southern Illinois to that point, when the rate appears to be the same.

Q. Well, you don't think you would get the average ton-mile earnings for the hauls in Southern Illinois if you divided your total rate by your total miles?

A. From Southern Illinois, one group, you probably would.

Q. Well, divide all of Illinois, your total rate by your total miles.

A. No, you wouldn't.

[fol. 1601] Q. Well, that is the way you get it for Southern Illinois.

A. Well, you have got one individual factor.

Q. Well, you have got a lot of different rates.

A. Yes, and the rate for a certain distance, the ton-mile earnings for each distance.

Q. If you took Southern Illinois alone and you added up your total from Southern Illinois to Amboy, as on page 31 of your exhibit——

Mr. Stadell: What exhibit is this?

Mr. Wilkinson: This is Exhibit 27, his shortest tariff routes. You have shown there your total miles via the shortest tariff route and you show the average to each of these points.

The Witness: That is right.

By Mr. Wilkinson:

Q. Then you show down on line 14 an average of the distance?

A. That is right.

Q. Now, that 354 miles shown in column E is not arrived at by adding the figures above in column E and dividing by 12, but is arrived at by dividing the figure 231,867 shown at line 13 under Column D by the figure 655 shown at line 13 in column C, is it not?

A. That is right.

Q. And in like manner you arrived at the rate of $2.05 shown in line 14 under column F by dividing the 134,280 shown under column F by 655?

[fol. 1602] A. That is right.

Q. Now in this page you have not shown here either ton-mile earnings or percentages of any scale?

A. That is right.

Q. Now, if you wanted to find the ton-mile earnings from Southern Illinois to Amboy, you could do that by dividng the $2.00 by the 313, could you not, because you only have one rate there?

A. Yes.

Q. But you say that to determine the ton-mile earnings from Southern Illinois to these 12 destinations you would have to go through the work of determining the ton-mile earnings to each point, then adding up those ton-mile earnings and dividing by 12?

A. Yes, you get the same result.

Q. But that would not get the same result as if you divided 354 into 205?

A. I think you would.

Q. You think you would?

A. I think you would.

Q. But you don't know it?

A. I am positive you would.

Q. Now if I can arrive at the average ton-mile earnings from Southern Illinois to these 12 points by dividing 354 into 205 or 214, as the case may be, and you say that would [fol. 1603] give the correct answer?

A. It would probably give you the same as if you took each individual point.

Q. Well, would it be the correct answer?

A. If you are using one individual group.

Q. I am using just Southern Illinois.

A. Yes, I think it would.

Q. It would be correct?

A. Yes.

Exam. Trezise: It wouldn't be your method of calculating?

The Witness: No. We are just talking about one group now.

Exam. Trezise: It wouldn't be your method of calculating, but it would be the same answer as the method you have advocated?

The Witness: Yes.

Mr. Stadell: From that one group.

Exam. Trezise: From that one group.

The Witness: Yes, from that one group. Now, remember, that is an average ton-mile earning that we have arrived at.

By Mr. Wilkinson:

Q. Now, would that not be the same if you divided your total rate of 134,280 by your total miles of 231,867?

A. It should come out the same, yes.

Q. If it is proper from one group to 12 destinations, why [fol. 1604] isn't it proper from 12 origins to one destination?

A. Because you haven't got any totals yet.

Q. Any totals for what?

A. Are you going to lump the 12 destinations?

Q. You have lumped the 12 destinations on page 31 from one group.

A. You mean if we take the same with some other group?

Q. No, I am just asking you if that gives you the proper answer, from one origin to 12 destinations——

A. Oh, you are talking about 12 destinations now.

Q. I am talking about one origin to 12 destinations, page 31 of Exhibit 27, and that gives you the right answer. Now, I want to know why the same principle does not apply when I take one destination from 14 origins. I want to know what is the difference between having one origin and 12 destinations and one destination and 14 origins.

A. I don't understand your question.

Q. Permit me to come up and point it to you. Maybe I can clarify it. In Exhibit No. 27 at page 31 thereof you show in the top panel 12 destinations in Northern Illinois with the rates and mileages from Southern Illinois. In that illustration you have one origin group, with the rates and distances to 12 separate destinations, each destination having a little different distance from Southern Illinois than the other. Is that correct?

[fol. 1605] A. That is right.

Q. And you have varying rates from Southern Illinois to these 12 origins, is that correct?

A. 12 destinations, you mean?

Q. Yes.

A. That is correct.

Q. Now, you tell me that if I add up the mileages, as you have done, by getting the total miles to Amboy and the total miles to Polo and each of the destinations and get the aggregate of those mileages and the aggregate of the rates, and knowing the number of origin points, 655 of them, that I can determine the average rate, the average distance, and then by dividing those two together we will get the average ton-mile earnings that coal moves on in moving from Southern Illinois to these 12 destinations?

A. Yes, sir.

Q. Now, I want to know why, as a matter of mathematics, freight figuring, I cannot apply the same principle when I start with 14 origin groups moving to one destination, as shown on page 1 of your Exhibit No. 29, from all of the origin groups in Illinois to Amboy, Illinois.

A. I still don't understand what you are getting at, Mr. Wilkinson.

Q. I am not asking you to understand what I am getting at. I am asking you why you can't apply the same [fol. 1606] principle that you would apply from one origin to 12 destinations, from 12 origins to one destination.

A. From 12 origins to one destination?

Q. Well, it happens, Mr. Rozene, that you show here that there are 14 origin points in Illinois that ship to Amboy.

A. That is right.

Q. Now, I want to know why you can't apply the same principle that you told me over here on Exhibit 29 to the situation depicted in the first panel on page 1 of Exhibit 29. Maybe we can go off the record here.

I got those exhibit numbers wrong. One was Exhibit 27 and one was Exhibit 29.

Mr. Stadell: Are you assuming the rates are the same from all the groups?

Mr. Wilkinson: I am not saying they are the same.

The Witness: I confess I don't understand your question. Now, I will be glad to go off the record and try to find out what you mean.

Exam. Trezise: Well, let us be off the record a minute. We will have a recess.

(A recess was taken.)

Exam. Trezise: All right, gentlemen, let us continue.

By Mr. Wilkinson:

Q. Continuing, Mr. Rozene, our discussion during the recess, I now understand that in arriving at the ton-mile earnings which you show on page 1, for example, of Ex- [fol. 1607] hibit No. 29, you added the ton-mile earnings under the present rate and arrived at a total of 166 mills per ton-mile for all the origin groups in Illinois to Amboy.

A. That is right?

Q. Then you divided that by 14?

A. That is right?

Q. And that to arrive at the ton-mile earnings from the Illinois origin groups to all of the 12 representative destinations, you added the total ton-mile earnings from all of the groups to each of these 12 destinations?

A. That is right?

Q. And then to get your average for the state you divided that total by a total of all origin groups that published rates to these destinations, some 14 or 15, as the case might have been?

A. That is correct.

Q. So that your divisor in that instance was about 160?

A. It would be the total, the divisor would be the total from each of the groups there.

Q. The total number of groups that published rates?

A. Yes, that is right.

Q. Now, I understand further that you used the same method in determining the average ton-mile earnings under the suspended rates?

A. Yes, sir.

Q. You have told us before how you arrived at your aver- [fol. 1608] age distances and average rates from the groups to each individual representative point and from the groups to the entire state. When you arrived at the average distance your divisor was 655 because there are that many origin points from which rates were published that you used?

A. That is right.

Q. And when you arrived at your divisor for the ton-mile earnings you used the number of groups from which rates were published to the destinations?

A. That is right.

Q. So in the one instance you used the number of points from which rates were published and in the other you used the number of groups from which rates were published?

A. Yes, because you would probably get the same result, I think you would, whether you used one or the other.

Q. But you haven't figured it out?

A. I am pretty sure you would.

Q. I say you haven't figured it out?

A. No, I haven't.

Q. Now, in your Exhibit 29 at page 1 you show under Amboy certain percentages that the present rate is of the Midland scale?

A. Yes, sir.

Q. Is that correct?

A. That is right.

Exam. Trezise: That is the Midland scale brought up to [fol. 1609] date?

The Witness: Yes, sir.

Exam. Trezise: Thank you.

By Mr. Wilkinson:

Q. Then on line 18 of page 1 you show an average of 84.

A. That is right.

Q. Now, that average of 84, is it the relationship of an average rate of $1.82 per ton for an average haul of 252 miles, under the Midland scale?

A. I don't know.

Q. Have you got a Midland scale with you?

A. No, sir.

Q. I show you a copy of the Midland scale which has been increased by 15 cents per ton and ask you what percentage of that scale a rate of $1.82 would be for a haul of 252 miles?

A. Well, approximately 71 per cent.

Q. In your Exhibit No. 29 on page 1 you show that average under column H at line 18 as being 84 per cent.

A. That is right.

Q. Of the Midland scale.

A. That is right. An entirely different method was used than what we just mentioned here in arriving at that 84 per cent.

Q. Now, in arriving at the 84 per cent, did you follow the same method which you have just described, by which you obtained the average mills per ton per mile shown in column F at page 1?

[fol. 1610] A. Yes, sir, I did.

Q. And on page 14 of your Exhibit No. 29, under column H, you show that the average rate from all Illinois origin groups to the 12 representative suspended points is 80 per cent of the Midland scale, is that correct, shown opposite line 14?

A. That is right, yes, sir.

Q. And if you excluded Belvidere it would be 81 per cent as shown opposite line 15?

A. That is right.

Q. Showing you the Midland scale again, I will ask you what percentage a rate of $1.83 for an average haul of 270 miles would be of the Midland scale.

A. Around 70 per cent. That would represent a relationship to an average rate.

Q. Do you have any exhibits that show for each group the percentage of the rates to the individual destinations in the same manner that you showed your ton-mile earnings?

A. From each origin group to 12 destinations?

Q. To each of the 12 destinations.

A. No, that is the only one I have.

Q. Now, is it a fact that in arriving at this percentage of 80, did you add up the figures above the 80 appearing in column H and dividing that total by 12?

A. No.

Q. Is what you did this——

[fol. 1611] A. The same as I did with the ton-mile earnings, as we went through before.

Q. You worked it out to each point and then got the total for each point and totaled the total and divided by the number of points that published those rates?

A. Yes, sir, the number of total groups, yes, sir.

Q. Now, in your Exhibit No. 23 you have shown the rates, short tariff route mileages, as taken from the carriers' exhibits 3 and 4, have you not?

A. Yes, sir.

Q. In column C, D and E?

A. Yes, sir.

Q. And you have shown the ton-mile earnings under those rates in columns F and G, is that correct?

A. Correct.

Q. Now, were those ton-mile earnings taken from carrier exhibits or did you work them out?

A. I worked them out.

Q. In columns H to J on Exhibit 23 you have shown the percents of the Midland scale, you have shown the scale rate and the percents that the other rates were of it, the Illinois and the Indiana rates?

A. Yes.

Q. Now, you have shown on line 17, page 1, an average 11.9 for the mills per ton-mile under the present rate to Amboy.

[fol. 1612] A. Yes, sir.

Q. You arrived at that figure by adding the figures preceding it in column F?

A. Above that, yes.

Q. And dividing by the number of origins from which rates were published?

A. Yes, sir.

Q. You did the same in arriving at the figure 84 shown in column I on line 17, did you not? You added the percents of the Midland scale and divided by the number of figures above?

A. That is right.

Q. And that is true with respect to column J, column L, and column M, is it not?

A. Yes, sir.

Q. And also column G?

A. Yes, sir.

Q. In other words, you used the same method here in arriving at mills per ton-mile and average percents of these two scales as you have previously described in discussing Exhibit 29 and Exhibit 27?

A. Yes, sir.

Q. And you applied, by the way, in both of these exhibits 29 and 27 and now 23, you did the same thing for Indiana that you did for Illinois?

A. That is right.

[fol. 1613] Q. You treated both states the same in that respect?

A. That is right.

Q. Exhibit No. 24 is a summary of Exhibit No. 23, is it not?

A. That is right.

Q. And the first page of Exhibit 24 through column K shows the same information as the first 14 lines at the top of page 14 of Exhibit 29, except that in Exhibit 24 you are dealing with the rates and distances via the average short tariff routes, while in Exhibit No. 29, you are dealing with rates and distances via the shortest tariff routes?

A. Yes, except 24 goes a step farther than page 14 of Exhibit 29. It shows the totals.

Q. Yes, it shows totals, but the ton-mile earnings and the averages of the Midland scale are comparable, are they not, and in Exhibit 24 it shows that you added up the ton-mile earnings, as shown in Exhibit No. 23, and divided by 167?

A. That is right.

Q. And it show that in obtaining the average percentages of the Midland scale you divided the total percents shown in Exhibits 24 by the same 167?

A. That is right.

Q. To arrive at 79?

A. Yes.

Q. Now, page 2, the top panel, of your Exhibit No. 24, is identical, so far as the average ton-mile earnings and the [fol. 1614] average percent of the Midland scale, with lines 16 to 23, inclusive, on page 14 of your Exhibit No. 29?

A. Yes. This exhibit is just the same as the exhibit you are speaking of there. Only the method of figuring the distance is different, that is all.

Q. Now, I note that in Exhibit No. 29, you have used as an origin group in Indiana Bedford.

Mr. Vesey: What page are you referring to?

Mr. Wilkinson: Well, that appears on all of the pages. You will see it on page 4 for the last Indiana origin group. That is true, is it not?

The Witness: Yes, Bedford is in there.

By Mr. Wilkinson:

Q. Now, in Exhibits Nos. 23 and 24 did you use Bedford?

A. No, 23 and 24 is taken from the carriers exhibits and they didn't show Bedford.

Q. So that so far as Indiana is concerned, Exhibits Nos. 23 and 24 are not identical in their contents, except for the difference in the way of figuring mileage, with Exhibit No. 29?

A. No. Bedford is included in that one exhibit where it isn't in the other.

Q. Then in all other respects, Exhibit No. 23, Exhibit No. 24 and Exhibit No. 25 are computed in the same manner in which you have made your computations in Exhibit No. 29?

A. All the computations are like for like.

[fol. 1615] Q. And I should tie into Exhibit No. 29, Exhibits Nos. 27 and 28—those are your short miles.

A. Wait a minute, 27 and 28——

Q. Those are the details of arriving at the average distances via the short tariff route.

A. What are you tying it into—Exhibit No. 24?

Q. No. Exhibit 27 and Exhibit 28 tie into Exhibit 29 in the same way that the carriers' exhibits 3 and 4 tie into Exhibit No. 23, is that correct?

A. Well, there is information probably shown on Exhibits 3 and 4 that I haven't used.

Q. Well, I know, you didn't use all of it, but as far as the rates and distances are concerned.

A. The principle, yes.

Q. And this chart which you show, which is Exhibit No. 26, so far as the exhibit deals with ton-mile earnings of various scales, is based upon the data shown on your Exhibits Nos. 23, 24 and 25?

A. That is right.

Q. And in like manner the charts which you show on pages 15 and 16 of your Exhibit 29 are based upon the data shown in that exhibit?

A. That is right.

Q. Now, I note, Mr. Rozene, that we have West Kentucky represented with us here this morning, and that calls my [fol. 1616] attention to this question. Are you familiar with the evidence in the pending case known as the Rates from West Kentucky to Chicago and Points in the Northwest, now pending before the Interstate Commerce Commission?

A. Yes.

Q. You have sat through and been a witness in that case, I believe?

A. Yes, sir.

Q. Now, do you believe that just using a mileage comparison represents or is a correct basis for comparing the rates from Western Kentucky and the rates from Southern Illinois to this destination territory?

Exam. Trezise: You mean using mileage only?

Mr. Wilkinson: Only, yes.

The Witness: No, I don't believe it is.

By Mr. Wilkinson:

Q. When you compare the rates from Western Kentucky and the rates from Southern Illinois, comparing only ton-mile earnings or distance or relationships under the Midland scale, you are in fact comparing those rates solely on a question of distance, are you not?

A. Yes, sir.

Q. And you don't believe that is a proper comparison as between Southern Illinois and Western Kentucky, as I understand it; there are other factors to be considered?

A. There are other factors to be considered, yes, between [fol. 1617] West Kentucky and Southern Illinois.

Q. That same thing is true as between Western Kentucky and Springfield or any of the other Illinois groups?

A. Yes.

Q. I will ask you this: do you believe that it is proper to compare the rates from Indiana and Western Kentucky into this territory solely on the basis of distance?

A. Well, I think the same applies to Indiana that I stated as to Illinois.

Q. So that believing that, Mr. Rozene, why did you put Indiana and Western Kentucky together to make comparisons in your Exhibits Nos. 23, 24, 25, 26 and 29?

A. Just to show what the level would be based on these distances from Indiana and Western Kentucky combined. That is all.

Q. But you did not want the Interstate Commerce Commission to make a decision in this case predicated upon what you consider an improper comparison, did you?

A. I haven't asked the Commission—I just put these up here to give the Commission a picture of the whole situation.

Q. But you didn't want the Commission to act on it?

Exam. Trezise: Wait a minute. Have you said that mileage was an improper consideration? Let us get this clear now.

The Witness: I said it would be improper to measure Southern Illinois and the Illinois fields and the Indiana fields with West Kentucky on the basis of mileage only.

[fol. 1618] Exam. Trezise: That is right. But mileage is a factor, you think?

The Witness: It is an important factor.

Exam. Trezise: And if you make a comparison by mileage, that is not improper, is it?

The Witness: No, sir.

Exam. Trezise: Let us get that straight now.

By Mr. Wilkinson:

Q. Let us get it straight. All other factors should be considered in making a comparison as between the two groups?

A. If there were any other factors, they should be, yes.

Mr. Stadell: You mean transportation factors?

The Witness: Transportation factors, yes, sir.

By Mr. Wilkinson:

Q. Now, you have not made any attempt here so far, Mr. Rozene, to show what the transportation conditions are in the haul from Western Kentucky to these destinations as compared with Southern Illinois, have you?

A. No, sir.

Q. But you believe that those transportation conditions should be known in order to use a distance comparison properly?

A. If you are considering Western Kentucky and Illinois, yes, sir, I think they should be considered.

Q. Well, do you want the Interstate Commerce Commission to consider the information that you have put in here about Western Kentucky without considering the other [fol. 1619] factors of transportation conditions?

A. No, I wouldn't expect them to do that.

Q. You wouldn't want them to do it, would you?

A. No.

Mr. McElroy: In grouping Western Kentucky and Indiana, did you do that having in mind the carriers' 13th Section petition?

The Witness: That is why it was done.

Mr. Stadell: But you assumed the burden was on them to show any transportation conditions, if the Commission thought that was necessary?

The Witness: Yes, sir.

Mr. Stadell: Or any difference in transportation conditions, I should have said.

Mr. McElroy: Are there any other interstate rates in this territory besides the Indiana rates and Western Kentucky?

Mr. Kaier: Illinois to Iowa.

Mr. Bather: Also the rates from Harrisburg into Rockford, that move out of Indiana over the Illinois Central.

Mr. McElroy: I will except those so-called Illinois interstate rates. There are no interstate rates involved in this case related to the 13th Section petition, with the exception, as I understand, of the Indiana rates and Western Kentucky rates?

Mr. Kaier: You would have Illinois to Beloit too, Mr. [fol. 1620] Examiner.

Mr. McElroy: Yes.

By Mr. Wilkinson:

Q. You were going to check up, Mr. Rozene, what appears to be an error in Exhibit 23, that I pointed out, on page 21. While you are checking that, will you also check your Exhibit No. 25 and ascertain how under your method of figuring, how the average of the suspended rates from In-

diana to Beloit can be 77 per cent of the Midland scale, Western Kentucky 77 per cent of the Midland scale, and when you put them together they are 76 per cent of the Midland scale?

A. Obviously, that is an error. I will check it up, though, and give you a correct figure.

Q. Now, on page 8 of your prepared statement and throughout your discussion of these short tariff route distances, you said that computing short tariff route distances results in a duplication of routes. That was one of your statements in support of your use of shortest tariff routes. Is that a correct statement, Mr. Rozene?

A. I think so, yes, sir.

Q. Now, as a matter of fact, the routes are not the same, and that is why you want to use shortest tariff routes, isn't it?

Exam. Trezise: You meant not a complete duplication?

The Witness: Yes, sir, it is not a short tariff route; if you are using two routes, why, one of the two is going to be short and it is not the shortest.

[fol. 1621] Exam. Trezise: You didn't mean it was the same. It was an additional route rather than a duplicate route?

The Witness: Yes, an additional route.

By Mr. Wilkinson:

Q. I just want to find out that we both use the same language, because duplication means identical. Now, you would like to change that statement from a duplication of routes to additional routes?

A. That is right.

Q. Now, the four principal carriers that serve and originate coal in Southern Illinois are the Illinois Central, the C. B. & Q., the Big Four, and the Missouri Pacific, are they not?

A. Yes, sir.

Q. I believe you stated somewhere in your testimony that there had been a change since 1931, I think you said, and that today instead of the C. B. & Q. carrying the largest percentage of the tonnage that originates from Southern Illinois, that it originates and moves over the Illinois Central, is that correct?

A. I didn't say today. I said in recent years it shifted.
Q. Well, in recent years?
A. Yes.

Exam. Trezise: You mean to all destinations?
The Witness: To all destinations, yes, sir.

By Mr. Wilkinson:

Q. And I believe that for the year 1941 you stated that the Illinois Central originated something like 47 per cent [fol. 1622] of the tonnage that moves out of Southern Illinois wasn't that approximately the figure?
A. Well, yes.

Mr. Stadell: 37 per cent, wasn't it?
The Witness: 37.

By Mr. Wilkinson:

Q. 37 per cent?
A. Yes.
Q. Now, that other 63 per cent originated principally on these other three carriers I named, although the C. & E. I. moved some slight percentage?
A. Yes, sir.
Q. Do you know whether or not from a mine that is served by the Illinois Central, the C. B. & Q., New York Central, the Missouri Pacific, that such a mine always ships its coal to Rockford, for example, via the shortest route between such mine and Rockford?
A. I don't know that.
Q. Do you know whether or not it does in fact move over all of those carriers?
A. I don't know what routes it moves over.
Q. Do you know whether the carriers with the longer routes from these joint mines move any coal into this destination territory?
A. With the longer routes?
Q. Yes.
[fol. 1623] A. I say, I don't know what routes they move over.
Q. Well, do you think it would be fair to assume, for the sake of this record, that the carriers originated coal in substantially the same proportion for delivery in this desti-

nation territory as they do generally from the Southern Illinois group?

A. I couldn't make a statement as to that.

Q. You wouldn't want to make that assumption?

A. No. As I say, I don't know how it moves.

Q. And the same way, you would not want the Commission to assume that the coal all moves over the line of the carrier having the shortest tariff route?

A. I haven't asked them to do that.

Q. You are not asking them to do that either. You were in the railroad business some years ago?

A. Yes.

Q. And had considerable to do with coal traffic, didn't you?

A. I was in the coal traffic department, that is, I was not in the coal traffic, but I had a lot to do with coal rates and checking rates.

Q. You know from your general experience, do you not, that coal moves irrespective of whether it is moving on the shortest route or the longest route, don't you?

A. Yes, sir.

Q. And that the length of the haul would not normally affect the movement of coal providing the rates were the [fol. 1624] same, you know that from your experience?

A. Yes, I know that.

Q. Now, is it not a fact, Mr. Rozene, that in Indiana there are very few mines served by more than one carrier?

A. There are not as many as there are in Illinois.

Q. Well, relatively there is not really as many in Indiana as there are in Southern Illinois, is there?

A. You have less joint mines in Indiana.

Q. You only have three or four, as a matter of fact, is that right?

A. I don't know. I haven't counted them up. I can give you the origin points, if you want it.

Q. Now, speaking of origin points and short tariff routes, did you consider in your shortest tariff route average origin points or mines?

A. Tariff origin points.

Q. Tariff origin points?

A. Right.

Q. Now, do you know that a point like Herrin, Illinois, for example, which is served by several of these railroads, that each of the railroads that serves Herrin serves each

of the mines located at or near Herrin and which is billed from Herrin?

A. No, I don't know that they all serve the same mine.

Q. Well now, let us take an example. Suppose mine A [fol. 1625] near Herrin, with Herrin as its billing point, is located on the C. B. & Q. Railroad.

A. Yes, sir.

Q. And mine B, with Herrin as its billing point, is located on the line of the Illinois Central Railroad.

A. Yes, sir.

Q. And there are no switching arrangements down there.

A. That is right.

Q. Can mine A ship coal over the Illinois Central at, we will say, the $2.00 rate to Rockford? Mine A is on the C. B. & Q., local to the C. B. & Q.; mine B is local to the Illinois Central. Now, does the Illinois Central get in and originate any coal at mine A?

A. No, it couldn't.

Q. Nevertheless, in your exhibits, because those two carriers serve Herrin as a billing point, you have used the Illinois Central mileage where it is the shortest, haven't you, for both those mines?

A. No, I haven't.

Q. Then why did you say you figured it from the billing point?

A. The shortest tariff route from each of the tariff origin points. For that one situation that you just mentioned, that there are no track connections at Herrin, so I have had to show Herrin twice, once over the C. B. & Q., to take care of that situation from mine A. So it is in here from mine A——

[fol. 1626] Q. What page of what exhibit does that show on?

A. Look at page 27.

Q. Page 27 of what exhibit?

A. Exhibit 27, I mean, page 1, line 20 and 21. Now, following lines 20 and 21 throughout the exhibit, you will find I computed the distance over both the C. B. & Q., and the I. C. to take care of the situation you mentioned.

Q. Is that the only place that exists?

A. That is the only place I know of.

Q. How about Orient?

A. I have got Orient in twice to take care of the same situation.

Q. So that the statement that you took the shortest tariff route from an origin point is not quite correct?

A. It is correct to the extent that this method has been criticized before, and that is why we put this in. I think in a previous case we eliminated one of the two points, and you criticized it because the traffic couldn't move over all the routes that we showed. So that is why I put these in there, showing it can move over all these routes.

Q. So that instead of your showing the shortest route from a billing point, you have in fact in your Exhibit 27 shown the shortest route from mines served by more than one carrier?

A. Not mines, no; tariff origin points.

Q. But applying it to the individual mines?

[fol. 1627] A. That is right. If we eliminate Herrin, we probably eliminate the long route out of Herrin and decrease our mileage.

Q. The same thing is true of Christopher?

A. Yes, the same thing is true there.

Q. And it would be true in several others?

A. Yes, sir.

Q. Now, the mines at Marion, I understand, are actually served by each of the three railroads shown at Marion on line 25?

A. Not necessarily.

Q. But you have only shown one.

A. Well, there are switching arrangements down there.

Q. And the same type of information will show in Exhibit 28, I assume.

A. Yes. Incidentally, talking of Exhibit 27, you overlook Zeigler, where we are compelled to use it four times on account of no track connections. Now, we could eliminate three of those routes and materially reduce our distance also.

Q. Now, does track connection always mean joint rates?

A. Not necessarily—switching arrangements.

Q. So when you said track connections, what you really meant was switching arrangements?

A. No. Your criticism in previous cases has been that we computed these mileages and couldn't move the traffic over them. So in order to avoid your criticism we have had to use Zeigler four times, and the cars go right under the [fol. 1628] tipple on the same track, regardless whether it is going on the C. B. & Q. or I. C. or Missouri Pacific.

Q. But the Burlington doesn't take cars out put in by the Illinois Central, or vice versa?

A. No, I understand you have got a consolidated switching arrangement down there, where one railroad pulls one week and the next week some other line pulls. That is my understanding. I don't know whether it is in effect or not.

Q. But where, for example, shipments are made out of the mines at Marion to Amboy, Illinois, the mileage you have used of 299 miles is the mileage via the Illinois Central Railroad, is it not?

A. To where?

Q. To Amboy, on page 1 of your Exhibit 27.

A. No, that is a route via Missouri Pacific to Herrin and the I. C.

Q. Herrin and the I. C.?

A. Yes.

Q. Now, you want the Commission to use that route even if all of the coal from that particular mine should move via the C. & E. I. over a longer haul, is that right?

A. For rate making purposes, yes, sir.

Q. You don't want to have the rates made that measures the service performed by the carriers or that the carriers hold themselves out to perform, the minimum service that [fol. 1629] they hold themselves out to perform?

Exam. Trezise: You mean sort of the weighted average distance on the tonnage?

Mr. Wilkinson: No. I am asking if he is not asking the Commission not to consider the minimum service that each carrier holds itself out to perform in this territory.

The Witness: Do you consider service when you figure your shortest tariff routes or short tariff routes?

Mr. Wilkinson: It is the minimum that each carrier performs or holds itself out to perform.

The Witness: That is the thing. You have the rate there.

By Mr. Wilkinson:

Q. Not if it moves over the C. & E. I., have you?

A. You can find instances like that all over Indiana and Illinois and Western Kentucky.

Q. Well, I was just trying to get your theory.

A. Sure, that is correct, for rate making purposes, we want to use that route.

Q. Now, that is for rate making purposes, and that is much along the lines that you and the Examiner were discussing last week, where you said that for rate making purposes the Commission could well use the nearest point in any rate group. You advocated that and told the Examiner last week you thought that would be all right?

A. In view of the statement I made Saturday morning [fol. 1630] before I took my cross-examination? Let us not go into that again.

Q. I am not getting into the H & H scale at all, Mr. Rozene.

Exam. Trezise: Didn't you rather renege on that a little?

The Witness: I did. I made the statement we didn't advocate those mileages shown in column A of Robertson's Exhibit 1 because they are not what I thought they were.

By Mr. Wilkinson:

Q. Now, also for rate making purposes you thought it would be well to use or they properly could use distances over these so-called reasonably short tariff routes shown in your Exhibit No. 30, I believe?

A. Yes, sir.

Q. And you think that it would be proper to consider those distances for the purpose of making the rates, but you wouldn't expect the carriers to move the coal over such routes?

Exam. Trezise: Now, didn't you say the short tariff routes? They are not tariff routes.

Mr. Wilkinson: Not tariff routes. They are the short routes shown by your combination red and blue lines.

Exam. Trezise: They are not tariff lines.

Mr. Wilkinson: They are not tariff lines—short routes. Strike that question. Let us get it clear.

By Mr. Wilkinson:

Q. I understand that you figure for rate making purposes using the distances that would be computed over the lines shown on your Exhibit No. 30 made up of the red line and the blue line, that is, a red line up to its junction with the [fol. 1631] blue line, and then the blue line?

A. That is right.

Q. But that you would not expect the carriers to move the coal via the routes of the red and blue lines?

A. Well, how could any coal move via the L. & N. mine when there is no production there? How could any coal move via the B. & O. when there is no production on the B. & O? How could it move—very little, probably only one per cent, from the C. & E. I. I don't think there would be any short-hauling of traffic when there is no coal produced at those points.

Exam. Trezise: Mr. Rozene, Mr. Wilkinson wants to know whether the Commission should give absolute consideration to the distances that you figured on Exhibit 30, using the red and the blue line, or as the Examiner understood you to state, the Commission should give some consideration to the fact that there are shorter routes. Now, I think he wants to know whether or not you want the rates fixed absolutely on that short distance or whether you merely want the Commission to give some consideration to that. Now, which do you want?

The Witness: We have shown these routes to show the extreme circuity in our shortest tariff routes. We are pointing out to the Commission some of these routes and when they are making these rates we want the Commission to give consideration to these unduly long circuitous routes.

By Mr. Wilkinson:

Q. That is all you want them to give consideration to, the [fol. 1632] fact that there are routes over which this traffic could move that are shorter than the present short tariff routes?

A. That is right.

Exam. Trezise: Shortest tariff routes?

Mr. Wilkinson: I mean shortest tariff routes.

The Witness: That is right.

By Mr. Wilkinson:

Q. Is that any different from the fact that you want the Commission to give consideration to the fact that from some of the mines in Illinois and a few in Indiana more than one carrier serves such mines, and you want them to consider that it would be possble for all of the coal from such joint mines to move over the shortest route, the route of the carrier having the shortest line from that origin to destination?

A. It is possible to move it over that route, but we are not asking them to move it over that route.

Q. Well, are you asking the Commission, in the words of the Examiner, to use the shortest tariff route as the absolute measure, or is it merely another factor to be considered?

A. We want them to use our shortest tariff routes with due consideration to the long circuitous routes.

Q. You want them to use your shortest tariff routes and then to whittle a little off of that by considering the fact that they are somewhat circuitous, that is, you want them to whittle it down a little more in the consideration?

[fol. 1633] A. We want them to give it consideration. How much, that is up to the Commission to decide. In other words, we want them to do just what you wanted them to do in 23130.

Q. And you know what the Commission told us——

Exam. Trezise: Well, that is not in the record here. Let us get something that we can get a hold of.

By Mr. Wilkinson:

Q. Now, you referred to what we wanted them to do in some other docket. Is it or is it not a fact that there are circuitous routes from Indiana into this territory, the destination territory involved?

A. Well, I haven't made a check of the long routes from Indiana recently, but I know one thing, that you have got some very short direct routes from Indiana mines, and the record will show that there is one route in particular where there is no traffic moving over it and it is really a very ridiculously short route.

Q. Ridiculously short?

A. Ridiculously short route.

Q. Now, what makes a route ridiculously short under the theory set out in your Exhibit No. 30 and as explained by you in connection with Exhibit 30?

A. I will give you an example of the route in Indiana that I think is——

Q. No, answer my question, Mr. Rozene.

A. I am going to. You asked me what I think a ridicu-

[fol. 1634] lously short route is and I will tell you.

Mr. Wilkinson: Will you read the question, please, to Mr. Rozene.

Exam. Trezise: Well now, the Examiner hardly understands a route can be ridiculous. Now, isn't there some other word you can use? If you are going to describe ridiculous, that may turn out to be ridiculous. Now, what do you mean by "ridiculous"? Can't you use another term?

The Witness: I probably should have said the route was so extremely short compared with the normal route that they had in there before this route was established, that it just doesn't seem possible that any objection should be made to some of the routes that I have suggested from Illinois when they have such routes in Indiana.

Mr. Wilkinson: Have I made any objections to any of your routes, Mr. Rozene?

The Witness: You are asking me if I want the carriers to haul the traffic over the routes I have suggested, and I told you, no.

By Mr. Wilkinson:

Q. That isn't what I asked you. Now, listen, Mr. Rozene. I asked you if you want the Interstate Commerce Commission to establish rates on the basis of the distances shown by these routes in Exhibit No. 30 made up of the red and blue lines, that is, the red line up to the junction of that line and the blue line, and thence to destination?

[fol. 1635] A. Well, in that one case, the map on the first page, I would say, yes.

Q. I would say all of the maps.

A. No. I want them to give consideration to it.

Q. You merely want them to consider it?

A. That is right.

Q. Now, I asked you next if you wanted the Commission to use the distances via your shortest tariff routes as the absolute distance to be used, and I understood you to say, no, that you want them to use the distances via your shortest tariff routes and then temper that consideration by a further consideration of the distances via the routes shown in your exhibit No. 30?

Exam. Trezise: You said that two or three times, I think.

The Witness: Yes.

Mr. Wilkinson: Well, I haven't quite understood it.

Exam. Trezise: Well, you say it now, do you?

The Witness: I will say it now, yes.

Mr. Wilkinson: All right. Now, we understand each other.

Exam. Trezise: Gentlemen, we will adjourn at this time until two o'clock this afteroon.

(At 12:30 o'clock P. M. recess taken to 2:00 o'clock P. M.)

Afternoon Session

The hearing was resumed pursuant to recess.

2:00 o'clock P. M.

Exam. Trezise: All right, gentlemen, when you are ready [fol. 1636] we will proceed.

HARRY A. ROZENE resumed:

Cross-examination (Continued).

By Mr. Wilkinson:

Q. Mr. Rozene, will you look at your exhibit 28, page 12, first page. What is the significance of the reference mark C after the New York Central Railroad?

A. That is the way the New York Central shows their line in the tariff naming the rate.

Q. I see. So far as this exhibit is concerned, then, it has no particular significance?

A. No. It is just the name of the railroad, that is all.

Q. And where you show NR in Column D, it means there is no rate from that origin point to Amboy?

A. Yes, sir.

Q. But there might be a rate from that origin point to some other one of the destinations? For example, there is a rate from King mine to Belvidere, but no rate to Amboy, is that correct?

A. That is correct, yes, sir.

Q. You gave some tonnages of coal that originated in the Princeton-Ayrshire Group in Indiana. I don't believe it was in your prepared statement. You gave those tonnages afterwards.

A. Yes, sir.

[fol. 1637] Q. Showing the total tonnages from the Princeton-Ayrshire Group and the tonages on the Southern Railway and the tonnages that originated on the AW&W Railway and moved via the Southern?

A. Yes, sir.

Q. Do you know whether or not all of the coal that originated on the Southern Railway and the AW&W that moved via the Southern moved to these destinations that are involved here?

A. I didn't say that it did.

Q. I didn't ask you that. I asked you if you knew.

A. No.

Q. Do you know whether any of it moved to these destinations?

A. No, sir.

Q. Do you know whether or not any coal from the Princeton-Ayrshire Group moved to any of these destinations?

A. I couldn't testify as to any coal from any group, how much moved to these destinations.

Q. Now, in your discussion of the rates from Southern Illinois and Indiana to Wisconsin, you stated that the rates from Southern Illinois were increased in September of 1924 and that the rates from Indiana to Wisconsin were not increased until July 1, 1925.

A. July 19th.

Q. July 19th, 1925. Now, is it or is it not a fact, Mr. Rozene, that at the time the rates from Southern Illinois to [fol. 1638] these Wisconsin destinations were published by the carriers pursuant to the decision in 89 ICC that the carriers were concurrently engaged in trying to work out an adjustment of the general increases and decreases in the rates from this territory, that is, Illinois, Indiana, to destinations in Northern Illinois, Wisconsin, Iowa, et cetera, to equalize the disruption of the differential that had resulted from the general advances and reductions?

A. Yes, they were negotiating at that time to establish the differentials that were in effect prior to August 23, 1920. However, they didn't equalize them after they did publish them.

Exam. Trezise: Some of these gentlemen can hardly hear you fellows. You are so close together. We will have to get you farther apart.

Mr. Wilkinson: I can raise my voice.

By Mr. Wilkinson:

Q. Is it not a fact, Mr. Rozene, that the carriers published rates from the Indiana mines and also from the Illinois mines to these points in Wisconsin along in November and

December of 1924, two or three months after the rates you here talked about were published, and were not those rates suspended by the Interstate Commerce Commission

A. As far as Indiana is concerned, I couldn't answer it, but they were from Illinois. But I don't believe they were published from Indiana.

Q. Is it not a fact that these rates that you referred to [fol. 1639] here as becoming effective July 19, 1925, were they not the rates published in the so-called Blue Book Adjustment that became effective at that time?

A. Well, they were the Blue Book rates, but I think there were some modifications after the original Blue Book was first published.

Q. But those rates that became effective July 19, 1925, had been before the Suspension Board of the Interstate Commerce Commission, had they not, and were published with the approval of the Suspension Board after some modifications of the original publications that had been suspended in December of 1924?

A. I don't know whether they were approved by the Suspension Board or not. There was no order that came out on it, and I couldn't say. That is, there was no order ever issued in that suspension case. However, I will say this, that they were established over the vigorous protest of the Illinois producers.

Q. Now, is it not a fact, Mr. Rozene, that these rates that became effective on July 19, 1925, to these destinations that were covered by the Blue Book publications in practically all instances carried the differential adjustment of Brazil-Clinton 30 cents under Southern Illinois, is that right?

Mr. Stadell: What differential adjustment, the one prevailing before that or the one that was arbitrarily established on that date?

Mr. Wilkinson: No, a differential adjustment as of that [fol. 1640] date was established.

The Witness: It was published under the Blue Book which, as I say, was over our vigorous protest.

By Mr. Wilkinson:

Q. And in the same way the differential from Linton-Sullivan was 10 cents under Brazil-Clinton in that Blue Book publication to these points in Northern Illinois and Southern Wisconsin?

A. I couldn't say that, because that differential——

Q. Well, take a Southern Wisconsin point.

A. Well, I have three points here in Wisconsin that were established at 10 cents over Brazil-Clinton.

Q. Where there wasn't 10 cents to some of these points in Northern Illinois, the differential Linton-Sullivan over Brazil-Clinton was 5 cents, wasn't it?

A. There were instances of that.

Q. And the Princeton rate was 7 cents over Linton-Sullivan, generally speaking?

A. Yes, generally speaking.

Q. And Boonville was 3 cents over Princeton?

A. That is right.

Q. Now, under those differentials the rates from Indiana to these destinations in Wisconsin were increased enough so as to bring about that differential Southern Illinois in relation to Brazil-Clinton and the other Indiana rates in relation to Brazil-Clinton, isn't that true, and still main-[fol. 1641] tain as between Southern Illinois and the Wisconsin docks the relationship that had been prescribed in 89 ICC?

A. You speak of Brazil-Clinton versus Southern Illinois, and I can't recollect where they differentiated between Southern Illinois and Brazil-Clinton. I didn't know they were establishing a relationship between Southern Illinois and Brazil-Clinton. I thought it was between Springfield and Clinton.

Q. Well, whatever they were establishing, that was the result of the Blue Book?

A. That was the result, yes.

Q. And that was the result of all of the rates from Indiana, they were all increased?

A. They were put up on the same basis as Springfield.

Q. Yes, and the other Illinois rates were all increased to these points in Wisconsin that were involved in 89 ICC, the Lake Dock case, so as to maintain the then differentials as between Springfield and DuQuoin and Southern Illinois?

A. Those differentials were established in the coal cases in 1920 and was pending before——

Q. I say, they were maintained in the Blue Book Adjustment?

A. Yes.

Q. And that reflected the increases from Southern Illinois that had been made as a result of the Lake Dock Coal cases in 89 ICC?

A. Yes, and disrupted the differentials that were in effect [fol. 1642] prior to Ex Parte 74, in which the Commission told the carriers to reestablish them.

Mr. Stadell: Between what groups?

The Witness: Between all groups, Illinois, Indiana.

Mr. Stadell: It disrupted the ones that are in effect today?

The Witness: Yes, sir.

Mr. Wilkinson: And had been there since July 19, 1924?

The Witness: In Southern Wisconsin they had.

Exam. Trezise: I am not following your question there exactly, Mr. Wilkinson. Have you made your point now that there was any consistency at all between those groups that you mentioned to Northern Illinois, and that that consistency is still being maintained? Isn't the contrary true? Which are you trying to establish?

Mr. Wilkinson: Off the record.

Exam. Trieze: Yes, take this off the record.

(Discussion outside the record.)

Exam. Trezise: Proceed, Mr. Wilkinson.

By Mr. Wilkinson:

Q. Mr. Rozene, the adjustment into Wisconsin, as you and I have been discussing, was made as a result first of an increase from Southern Illinois, as a result of the decision in the Lake Dock Coal Cases, 89 ICC, and the rates from Southern Illinois were increased varying amounts so as to bring about a differential with Southern Illinois and [fol. 1643] the lake docks, is that right?

A. That is right.

Q. And those rates became effective in September, 1924?

A. That is right.

Q. Now, at that time the rates from the other Illinois groups, except the intermediates, and the rates from Indiana were not increased to those same destinations?

A. That is right.

Q. But later the rates from the other Illinois groups and from Indiana were increased to those destinations in Wisconsin to which the rates from Southern Illinois had been

increased? I am not referring to the amount, but they were increased?

A. They were increased, yes.

Q. And those increases were carried in the so-called Blue Book publications that became effective on July 19, 1925?

A. That is right.

Q. And those rates into Southern Wisconsin which became effective on July 19, 1925, carried with them rates that resulted in a difference between Brazil-Clinton and Southern Illinois of 30 cents per ton to all of those Southern Wisconsin destinations, or practically all of them?

A. As I recall it, Brazil-Clinton was put on the same basis as Springfield and Springfield was 30 cents under Southern Illinois.

Q. So there is a difference between the rates from South- [fol. 1644] ern Illinois and Brazil-Clinton of 30 cents per ton?

A. That is right.

Q. Now, that Blue Book publication also carried rates from both Southern Illinois and Springfield and the other Illinois groups and Indiana to this same general territory in Northern Illinois that is involved in this case, did it not?

A. Well, I am not so sure about that, Mr. Wilkinson, whether they took in the Northern Illinois points or not.

Q. You don't know——

A. I think if there was any change, say, for instance at Rockford, it would show in the carriers' exhibits.

Q. The history of the rates into this Northern Illinois territory is in here in a carriers' exhibit?

A. I think they have, to Rockford and Freeport.

Mr. Vesey: May I ask a question right there, Mr. Wilkinson?

Mr. Wilkinson: Surely.

By Mr. Vesey:

Q. Does that mean there were no intrastate rates, as far as you recollect, in the Blue Book?

A. As far as I recollect, I am not sure about that; I couldn't say without looking at it again. It has been a long time since I looked at that book.

Mr. Bather: May I ask a question there, Mr. Wilkinson?

Mr. Wilkinson: Surely.

By Mr. Bather:

Q. Mr. Rozene, isn't it a fact that the Blue Book rates [fol. 1645] were modified so that no increases were made in the proposed rates in the Blue Book, in so far as Illinois intrastate traffic was concerned?

A. That is why I hesitated to answer the question, because I don't know just how the Illinois intrastate rates were dealt with there.

Q. In other words, no change was made in the rates at that time from Southern Illinois or the other Illinois groups to Rockford?

A. As I stated, I couldn't answer that, because I am not clear on that. I would have to check it up. But I say the history of the rates is shown and the carriers will probably reveal whether they were or not.

By Mr. Wilkinson:

Q. By the way, talking about these groups and rates, in your Exhibit 20 you showed what purported to be the origin groups in Illinois and Indiana and West Kentucky?

A. Yes, sir.

Q. Now, in that map you failed to show a Bedford group in Indiana, did you not?

A. I have shown it, but I haven't identified it. It is shown there but I haven't identified it.

Q. Well, you haven't identified it. Is that the yellow spot just west of——

A. Between Bedford and Elnora, yes.

Q. What road is that on?

[fol. 1646] A. Chicago, Milwaukee, St. Paul & Pacific.

Q. That is the only road that serves mines there?

A. Yes, sir.

Q. Did you hear Mr. Kuhls' evidence regarding rates from the mines in that territory?

A. Yes. I probably didn't hear it all. I read it though, that they were not very material.

Q. Well, you heard him say there were no mines there shipping coal now, didn't you?

A. Yes.

Q. And that the only mines that had ever been there were some wagon mines that brought coal to a siding and shipped from there?

A. That is right.

Q. But you show five origin points in Bedford, don't you?

A. That is right.

Q. Now, if you had omitted Bedford from your computations in your exhibit No. 29, would not the result have been to have had a slightly higher average rate and a slightly lower average haul than you do show in your Exhibit No. 29?

A. It depends upon what you mean by "slightly", one-tenth of a mill or something like that.

Q. It might be only a tenth of a mill or something like that, but slightly higher for the rate and slightly lower for the mileage?

[fol. 1647] A. I don't think it would make enough difference to even——

Q. I am not asking the amount. I am asking if that is not the fact.

A. I don't know. I don't think it would make much difference.

Q. Now, further in respect to your Exhibit No. 29, these outlines around the yellow spots are not exact, are they, Mr. Rozene?

A. What do you mean by "exact"?

Q. Well, for example, your Southern Illinois outline, that is a straight line across the bottom. Now, isn't that arrived at by merely taking a line that would run through Carbondale through one that would run through this town of, some kind of a Junction, down there at the right-hand side?

A. Well, the line runs that way. We tried to avoid cutting off any mines if they are south of that line. I think all the mines are north of that line.

Q. What I am trying to get at is the idea of your map, that you have taken the points at which mines are located and then drawn the lines just so they would include those mines?

A. That is right, the tariff origin points.

Q. I am trying to find out how, for example, on the line of the Illinois Central you knew where to draw the line that would cut through the Illinois Central just south of this town of Bellerive, I think it is. Do you see what I mean?

A. It would be north of Bellerive, wouldn't it? There are [fol. 1648] probably no mines on that line south of Bellerive. I have never been able to find out or to find any other mine. But we cut across there to make a grouping so it would appear on the map properly.

Q. And that is the same theory on which all of these demarcations are made, just so it would roughly enclose all of the mines from which you found rates published in the tariff?

A. That is right.

Exam. Trezise: That isn't "roughly", is it?

The Witness: It isn't "roughly." It shows the limits of the group generally.

Exam. Trezise: If you had drawn a line just to include each mine that is in that group and border it close with a line, it would be a zigzag line instead of a straight line, but you have drawn a straight line, have you?

The Witness: Yes, sir.

Mr. Wilkinson: That is what I am getting at, whether this was supposed to represent mines right up to the line of the Illinois Central or whether it was drawn just, for example, at McLeansboro, and some other town up here in the corner?

Exam. Trezise: Well, if it were drawn properly the line there might drop down on the Illinois Central to a considerable extent.

The Witness: That is right, yes, sir.

By Mr. Wilkinson:

Q. Now, why did you not include these Bedford mines in [fol. 1649] the Linton-Sullivan group of Indiana instead of setting it out as a separate group?

A. Well, I did that in one case and we were criticized by the Indiana people, so I separated it this time.

Q. Otherwise you would have put it in Linton-Sullivan?

A. No, I wouldn't have put it in there at all. I leave it separate, the way it is.

Q. I mean if you hadn't been criticized.

A. Well, I assume they were on the Linton basis in the other proceeding, and here I found they take the same rates and probably should be separated. If they take the same rates they should be separated.

Exam. Trezise: You say, if they do?

The Witness: They do take the same rates on certain points on the Chicago, Milwaukee, St. Paul & Pacific.

By Mr. Wilkinson:

Q. And they take higher rates to other points on the Milwaukee Railroad?

A. They take higher rates to where?

Q. To some of the other points on the Milwaukee.

Exam. Trezise: Higher rates than Linton?

Mr. Wilkinson: Higher rates than Linton.

The Witness: No, I think they take the same rate as Linton in all cases to destinations on the St. Paul.

By Mr. Wilkinson:

Q. Now, you spoke in your direct examination of the reduction in the tonnage which was shipped from Southern [fol. 1650] Illinois in 1941 as compared to the shipments from Southern Illinois in 1923 to the destinations in the Northwest, Minnesota, South Dakota, Michigan, Iowa, Wisconsin, and so on. Did you also include in your computations of reductions from Southern Illinois, the movement from Southern Illinois to Northern Illinois, the territory here involved?

A. I don't quite get you. We haven't any separate figures showing what the tonnage is to Illinois.

Q. So that is why you didn't refer to this destination territory in Northern Illinois when you were discussing the loss of tonnage from the Southern Illinois mines?

A. No, we couldn't refer to Northern Illinois because there are no figures published that I know of to the specific territory.

Q. Do you attribute the loss of the tonnage from Southern Illinois, which you have referred to at page 29 of your prepared statement, to the freight rate adjustment?

A. Not wholly, no. There are other conditions probably that have affected it besides the freight rate adjustment.

Q. Do you know whether or not there has been a diminution of the tonnage from the Indiana groups to this territory that you have described at page 29 of your prepared statement during this same period, 1923 as compared to 1941?

A. I haven't checked it.

Q. You mean you haven't checked it recently or you have never checked it?

[fol. 1651] A. Recently.

Q. And you have no recollection about it?

A. I couldn't tell you anything about it unless I had the figures before me, Mr. Wilkinson.

Q. Now, what do you mean in your statement at that page 29 where you said, "This decline has been due to the displacement of coal from Southern Illinois mines by other mines, by coal moving by truck, and by substitute fuels, such as natural gas, fuel oil, et cetera." Do you know of your own knowledge of any Southern Illinois coal during this period being displaced by the coal that moved into that territory by truck?

A. I don't of my own knowledge, but I know just from what I have heard in meetings with our member companies.

Q. You just heard it in meetings?

A. Yes, sir.

Q. Now, do you know whether or not Southern Illinois has ever gotten any new customers in any of this territory where it displaced some other coal?

A. No, I don't.

Q. You never heard of that happening?

A. No, I haven't.

Q. Do you know whether or not it is generally true that less coal is used, or was used in 1941 as compared to 1943, to generate the same amount of steam?

A. I have heard so, yes.

[fol. 1652] Q. Well, that is quite generally admitted, isn't it?

A. Yes.

Q. Do you think that that factor might have had some effect on reducing these shipments from Southern Illinois into this territory?

A. It probably has, one of the factors.

Q. Well, you didn't mention that in your factors here. Now, isn't it true that the natural gas has been more of a factor in Nebraska, Iowa and maybe Minnesota and the Dakotas than it has in Northern Illinois or Southern Wisconsin?

A. I couldn't say.

Q. You don't know where the pipe lines go?

A. I am answering your question. I know from a general standpoint, but answering your question, I don't know.

Q. Now, you made the statement that the quantity of coal shipped from Southern Illinois mines to destinations in Indiana decreased about a million and a half tons in 1941 as

compared to 1923. Was that coal displaced by other coal, do you know?

A. I couldn't say what displaced it. Other coals evidently displaced it.

Q. Do you know as to what part of Indiana that million and a half tons was formerly shipped?

A. No, I don't.

Q. You don't know that it was shipped to the steel mills at Gary and Indiana Harbor and there?

[fol. 1653] A. I don't know that, no, sir.

Q. You don't know that it was displaced, along with the No. 4 coal of Indiana, by Eastern Kentucky coal and coke, do you?

A. I don't know that, no.

Q. Now, you speak about 101 mines having been closed down and abandoned in Southern Illinois since 1923. Are they any part of the mines which in previou hearings you have pointed out as being unable to operate because of the lack of markets for Illinois coal?

A. Same mines, yes, sir.

Q. Now, some of those mines that you have talked about, owned by members of your association, as being unable to operate because of lack of markets, are not operating today, are they?

A. Not that I know of.

Q. You don't know that some of the mines that you spoke of, I think in one of the early hearings in the Wisconsin cases, that you testified were not operating because there was no market, are still not operating?

A. I don't know of any new mines that have opened up in Southern Illinois in the last couple of years.

Q. No, but you know of a number of mines that have not operated for five or six years and are still not operating, don't you?

A. Yes, sir.

Q. And yet there is no lack of market today for the coals produced in Southern Illinois, is there? You could sell [fol. 1654] more coal than you are now producing, couldn't you?

A. I understand business now is very good.

Q. What are the latest figures you have on the operations of the Southern Illinois mines? You show here the number of days operated in 1938, 1939 and 1940. Is that the latest figures that are available on that subject?

A. No, they are not the latest, but that is the latest I figured out. We bring this up each year. But that is the latest year we have.

Q. Where do you get those figures from?

A. From the Illinois Coal Reports.

Q. And they haven't got out the reports for 1941 or 1942 yet?

A. I didn't say they were not out. I said we haven't had them to work them out yet.

Q. But they are available?

A. Well, 1941 I think is out.

Q. Before the hearing in this case, Mr. Rozene, you sent out a copy of the exhibits that you intended to introduce, certain mileage and rate figures. I understood you to say early in your testimony that there were errors in that exhibit, so that you did not use it, is that correct?

A. I didn't say there were errors. We didn't have the Belleville District mines in there, and we wanted them all in together, and when we found we had them, we reworked the exhibit. There might have been some errors in there. [fol. 1655] We probably discovered them. I don't know just what they were, but they were not material.

Q. Now, in that exhibit you sent out, you showed the figures from all of the mines via the average of the short tariff routes, is that correct?

A. That is right.

Mr. Morgan: Was that exhibit ever introduced in evidence?

Mr. Wilkinson: No.

By Mr. Morgan:

Q. Whereas in the Exhibits that you have introduced in evidence, you do not show any of your computations of rates and distances via short tariff routes, but rely solely on the carriers?

A. That is correct.

Q. Was that merely to avoid duplicating?

A. That is all, yes, sir.

Exam. Trezise: Now, that is in the record now, Mr. Morgan, those distances in the carriers' exhibits are the short tariff routes.

Mr. Morgan: May I be off the record?

Exam. Trezise: Off the record.

(Discussion outside the record.)

Exam. Trezise: Proceed.

By Mr. Wilkinson:

Q. Now, do you think, Mr. Rozene, that because Southern Illinois lost this million and a half tons of coal which it formerly shipped to destinations in Indiana, that it should [fol. 1656] be given some kind of a preference in the rates to these destinations in Northern Illinois so that it can recoup that loss?

A. We are not asking for any preference, Mr. Wilkinson.

Q. Then what is the significance in your judgment, Mr. Rozene, of the fact that you lost a million and a half tons of coal between 1923 and 1941 or 1940, that you had formerly shipped to destinations in Indiana?

A. Well, we showed the losses to these other points to illustrate that we have been pushed out of the markets in these other states, and to show how important this Northern Illinois market is to us.

Q. You didn't mean by showing this that you thought the Commission should give any consideration to that in fixing your rates to these Northern Illinois points, did you?

A. We are not asking the Commission to do anything from Illinois more than they would do from Indiana. We are ready to go along on a reasonable level from all the fields. But we don't expect our rates to be so much higher that it shuts us out and lets somebody else in with a lower rate.

Q. Do you have any information from any source regarding the movement of coal from Southern Illinois to the destination territory involved in this proceeding, as to whether it has grown or whether you have held your own in the market relatively with the other groups that ship there, or [fol. 1657] whether it has diminished?

Exam. Trezise: If he doesn't know what the movement is, how could he know that, Mr. Wilkinson?

Mr. Wilkinson: Well, he may not know the exact movement. I asked him if he has any information.

The Witness: I would have to get the tonnage figures out and study them.

Mr. Wilkinson: That is all.

Exam. Trezise: Very well. We will take a short recess.

(Recess taken.)

Exam. Trezise: Mr. Wilkinson, you had another question you wanted to ask?

Mr. Wilkinson: Yes, I wanted to ask one or two questions.

By Mr. Wilkinson:

Q. Mr. Rozene, in your Exhibit No. 29 you show that the average mills per ton from the Fulton County mines to all destinations in the affected territory is 10.2 mills and from Southern Illinois you show that the average earnings are 5.8 mills. Is that correct?

A. Yes, sir.

Q. Now, I understood in answer to a question asked of you by one of other counsel that you thought that was proper because of the fact that ton mile earnings should properly decrease as length of hauls increases.

A. I don't remember testifying to that.

Q. Didn't you testify to that?

[fol. 1658] A. No.

Q. Well, do you think that that is a proper spread as between Fulton County, on the one hand, of 10.2 mills per ton mile earning and Southern Illinois, on the other, with 5.8 mills?

A. I can't see anything wrong with it.

Q. And you think that shows an equality of level of rates?

A. Well, that would be pretty difficult to answer, Mr. Wilkinson, for this reason: There are so many different rates for varying distances here that you could probably find any kind of a comparison you would be looking for.

Q. Well, would the fact that the haul from Fulton County as an average of 159 miles and a haul from Southern Illinois 354 miles——

Mr. Bather: To where?

By Mr. Wilkinson (Continuing):

Q. —to all of the twelve suspended points, have any effect upon the relation of the mills per ton mile earnings from the two groups to these twelve destinations?

A. It is obvious that it would.

Q. And because the haul from Southern Illinois is so much longer than from Fulton County, is it proper that the ton mile earnings should be less from Southern Illinois?

A. That is usually the way rates prove up.

Q. Now, I call your attention to the fact that you show that the average distance from all of Illinois to these twelve [fol. 1659] suspended points is 270 miles, and in that same exhibit you show that the average distance from the Indiana groups to all of the suspended points is 313 miles, a difference of 43 miles. Now, do you think that a difference there, taking the entire two states, should have the effect of having slightly less mills per ton per mile earnings from Indiana than from Illinois?

A. You have got a drop there of 3.7 mills per ton per mile for 43 miles. I think that is too great.

Q. Well, for that difference there, considering we are looking at both states as a whole, what do you think a difference of 43 miles should represent in the difference in the mills per ton mile earnings—.2 of a mill or .5 or a mill or what?

A. I couldn't answer that directly because before I would answer the question I would want to study some of the scales and see how the scales drop.

Q. Well, you made a pretty thorough study of the H. & H. scale, didn't you?

A. I haven't looked at it.

Q. I thought you were going to look that up and testify about it today.

A. I can't do it today, no, sir.

Q. Well, just looking at your rates from the various groups in Illinois to these destinations, for example, DuQuoin and Southern Illinois, with a differential of one mill for a difference of 54 miles, or Bellesville and Southern [fol. 1660] Illinois, with a differential of 5 mills for 27 miles, based on that study, would you have an opinion?

A. No, sir.

Q. But you think that there should be some slight difference in the earnings?

A. Yes, sir.

Q. And that the longer haul should have slightly lower mills per ton mile than the shorter haul, using the average hauls for the two states to a group of destinations?

A. Well, that is generally the theory of rate making.

Q. But you wouldn't want to give an opinion as to what that difference is?

A. Because we have so many of them here, why, I could sit here for a week and pick out thousands of comparisons.

Q. Following that a little further, would you say that if it developed that the difference in mills per ton mile earnings from Indiana to all of these twelve representative points was only, say two or three-tenths of one per cent less than all of Illinois to the same points, that you would show that the Indiana rates were on a lower level than the Illinois rates, considering the difference in distance?

A. You mean one or two-tenths per cent?

Q. Yes, just one or two or three or four-tenths per cent.

A. I don't think we would go down that fine, to half a mill or something like that.

[fol. 1661] Mr. Wilkinson: All right, that is all.

Exam. Trezise: Do we have further questions of Mr. Rozene?

By Mr. Cardy:

Q. Just one question, Mr. Rozene. As I understand your exhibit here, or three or four of your exhibits, they attempt to compare the level of the Illinois rates which are increased with the level of the Indiana interstate and Western Kentucky rates. In other words, a comparison of the levels of the state versus the interstate rates, is that true?

A. Yes, sir.

Q. And by your method of computation, regardless of how the computation is made, it indicates that the rates in Illinois are on a higher level, is that true?

A. Yes, sir.

Q. Now, the carriers in their Exhibit 12, as I remember it, they compared the state rates to 12 destinations, with about twelve interstate points, and by their method of computation it shows directly opposite—that the Illinois intrastate rates are on a lower level than the interstate. Do you remember that?

A. Well, I have an exhibit showing the level on their figures.

Q. That is what that indicates, isn't it?

A. No. I would have to take another look at it.

Q. Well, that was my impression, that that was the purpose of the exhibit and that was their showing.

[fol. 1662] Mr. Stadell: Are you talking about railroads' exhibit No. 11?

Mr. Cardy: Railroads' Exhibit No. 11.

The Witness: Well, I don't believe Exhibit No. 11 brings it down to a final average.

By Mr. Cardy:

Q. In other words, Mr. Rozene, I don't know whether you are familiar with Exhibit No. 11, but that indicates from the comparisons the carriers made that the Illinois intrastate rates are on a lower level than the interstate, to twelve points, and they compared point to point rates. Now, as I understand it, you have taken all of the rates that were increased in this proceeding, some 350, and by your method of computation you show exactly opposites. Now, have you any thoughts or expressions? I would like to have them from you, because I think you probably are more familiar with this situation than a lot of us, as to which method is the proper and the best method to test the level of the Illinois intrastate rates which are supposed to be increased, with the level of the interstate rates to the same destinations. If you have any thought on that, I would like to have it. If you haven't, we will drop it.

A. Just as I expressed it in my Exhibits 28 and 29, that is the proper method, I think.

Mr. McElroy: In other words, is your method better or is the carriers' method better in testing the level of the [fol. 1663] Illinois intrastate rates?

The Witness: Well, I think my method is the best of the two.

Mr. McElroy: Why?

The Witness: For the reasons I have explained. I have gone into more detail on it.

Mr. McElroy: You include more points than the carriers have included in their showing?

The Witness: No. I have tried to take all the points in the state.

Mr. McElroy: Then you include more points in your showing than the carriers have included in their showing, is that correct?

The Witness: No, I have used the same points.

Exam. Trezise: Let us get the difference. The difference is that the carriers figured distances over the short tariff routes and you figured them over the shortest tariff routes. Now, beyond that, you took the same origins and you took the same destinations, didn't you?

The Witness: Yes, sir, identically.

Exam. Trezise: Then what else is different? Nothing that you know of?

The Witness: Nothing that I know of, only the method that is used.

By Mr. Cardy:

Q. Just one other point. Didn't you take all of the rates [fol. 1664] that are involved in this proceeding, to be increased, and determined your ton mile earnings on all of the rates, not only twelve rates?

A. I took all of the rates. I attempted to.

Mr. Zoll: Mr. Examiner, I just wanted to clarify for the record the fact that in one of Mr. Cardy's questions he said that there were some 350 points to which the rates had been increased in the carriers' suspended tariffs, and as we will show before the hearing closes, that is about three times as many as actually were increased. I think the number is around the hundred's.

Mr. Cardy: Well, I will make my question to read the actual number.

The Witness: I want to add one further thing, that the carriers' Exhibit No. 11 compares the rates with the Holmes and Hallowell scale, which I have not used in my exhibits.

By Mr. Bathor:

Q. Mr. Rozene, with reference to Mr. Cardy's examination referring to your exhibit No. 29, page 16, does that show the situation in so far as the state and interstate rates are concerned?

A. Yes, sir, it does.

Q. And that is based on the other information contained in the exhibit?

A. Yes, sir.

Exam. Trezise: Do we have some further questions of [fol. 1665] Mr. Rozene?

Mr. Vesey: Yes, I have a few.
Exam. Trezise: Mr. Vesey.

By Mr. Vesey:

Q. In making your study of levels, Mr. Rozene, did you make a study of the level of rates from each of the origin groups in Illinois to both the so-called compared territory, that is, in Southern Wisconsin, and then to the suspended territory in Northern Illinois?

A. Yes, sir.

Q. And did you do the same for the Indiana Groups?

A. Identically.

Q. Now, in answer to Mr. Wilkinson's question along toward the end of his cross examination, I believe you said that all that you wanted was a reasonable level to prevail from all groups, is that right?

A. That is correct.

Q. Now, am I to take it from that, that what Southern Illinois is really asking is that the same relationship be maintained between the level of rates prevailing in the compared territory as against the suspended territory for each of the groups involved, that is, the origin groups involved in this proceeding?

A. All we ask is to be on the same level as the rates from Indiana.

Q. On the same level as the rates from Indiana?

[fol. 1666] A. Yes.

Q. Well, is all that you are asking for is, for example, taking Springfield as against Brazil-Clinton, let us say, that the same relationship be maintained for Springfield, that is, between your level in your compared territory as compared against your level in your suspended territory, as is maintained for Brazil-Clinton to the compared territory as against suspended?

A. Provided the distances are practically the same.

Q. Provided the distances are practically the same?

A. Yes.

Q. In other words, you would have the same relationships and levels compared as against suspended for both groups?

A. Yes, sir.

Exam. Trezise: Where the distances are the same.

Mr. Vesey: I say, where the distances are the same.

Exam. Trezise: Where they are the same, you think the rates should be the same?

The Witness: Yes.

By Mr. Vesey:

Q. Then, where you, as I take it, would scale down, that is, increase the distances, one group against the other, would you have a variation in the level?

A. Well, if it happened that Princeton-Ayrshire was on the same level as Southern Illinois, we want the same level and the same rate. The mileages are identical. They are practically the same.

[fol. 1667] Q. Now, in making your study of the levels you found, did you not, for example, that the variation in the levels for Brazil-Clinton in the compared territory as against the suspended territory was a wider variation than the variation from Southern Illinois in its compared territory as against the suspended, did you not?

A. Between Springfield——

Q. No, between Brazil-Clinton, on the one hand, comparing the two levels, and comparing the two levels of Southern Illinois, you found a greater disparity in the case of Brazil-Clinton?

A. Yes.

Exam. Trezise: To Northern Illinois?

Mr. Vesey: That is right.

The Witness: Yes.

By Mr. Vesey:

Q. That coincides, does it, with your theory of rate-making, namely, that speaking of differentials or differences, that the differential or difference should increase as the distance decreases, or stated conversely, that the differential or difference should decrease as the distance increases, is that right?

A. That is right, yes.

Q. And that is fundamental with you in the making of rates, is it?

A. Well, that is what the Commission has done.

Q. Well, take your own opinion. I don't care about the [fol. 1668] Commission. I mean, as you look at it, it would be a proper rate pattern that would be fundamental, would it not?

A. Pardon me, as I understand you, as the distance increases the differential should decrease?

Q. Yes, or stated conversely, take Southern Illinois as against Brazil-Clinton, for example, which you said was right there, where your distance decreases your differential increases?

A. No, I don't think that would be quite proper. I think if you are going to set a certain differential you have got to take a large destination group and apply the differential to that group.

Q. You are not complaining against the Brazil-Clinton, the relationship in levels, are you, as between its level of rates to the suspended territory as compared to the compared territory, in so far as it has a greater width in that differential than you have in Southern Illinois; you are not complaining about that, are you?

A. We are not complaining in this case. We can't complain about the differentials to the compared territory.

Q. I say, in your testimony here or your exhibits, you are not making any point of that, are you?

A. No.

Q. Now, in following through on that study which you said you made of these rate level relationships, didn't you find that looking at Southern Illinois now, as against [fol. 1669] Brazil-Clinton, on the one hand, and Southern Illinois as against Fulton-Peoria, on the other, that they were just in converse relationship, namely, where Brazil-Clinton being the closer group compared with Southern Illinois, the rate differential had widened, and when you got to Fulton-Peoria, the closest point, so far as Illinois is concerned, that is, that the rate differential decreased?

A. No, I didn't find that.

Q. I mean so far as the levels are concerned.

A. I would have to check through here to check those.

Q. You don't recall that?

A. I am trying to.

Q. Well, just leave that question go for the moment. Let me ask you this way: Do you know of any reason why Fulton-Peoria's rate level relationship, suspended territory as against compared, should be any different than the rate level relationship between Southern Illinois, suspended as against compared?

Mr. Stadell: You mean as measured by some scale?

Mr. Vesey: Just measured any way you want to. I mean talking about the rate level relationships.

The Witness: Well, just this one question, do you mean the present differentials?

Mr. Vesey: I am just talking about, not present—theoretical; Southern Illinois is static; what should Fulton-Peoria be, for example? Now, assuming, Mr. Rozene, that the level [fol. 1670] of Southern Illinois in the compared territory as related to the Southern Illinois level in the suspended differ but ten percentage points on a scale used, do you know of any reason why Fulton-Peoria's rate level relationship, compared as against suspended, should be greater than ten percentage points?

The Witness: Well, I am not going to make a direct answer to that, for this reason, that it may be the differential into the compared territory isn't right.

By Mr. Vesey:

Q. I think if the answer is "Yes", then you do know of no reason, is that what you mean?

A. As I understood the question, you want to know whether the differential in this suspended territory shouldn't be the same as in the compared territory?

Q. No, I did not talk about what the levels should be. I am saying the relationship between levels, do you know of any reason why they should be different?

A. No, there shouldn't be any variation.

Q. There shouldn't be any variation, should there?

A. No.

Q. And if there was any variation, it would be a wider differential relationship, would it not?

A. I wouldn't say it would.

Q. For the closest origin?

A. Not necessarily.

Q. Just wait until I finish the question—as is the case in [fol. 1671] your Brazil-Clinton relationship, compared against suspended, when measured against Southern Illinois, compared against suspended?

A. As I said, maybe the compared territory isn't right, and we don't think it is right. So I wouldn't hook it up with the compared territory.

Q. Do you know of any reason why Fulton-Peoria, for example, in its relationship with Southern Illinois, and by

that I mean its relationship of rates, in the compared territory as against the suspended, should not be accorded an equal status, let us say, with Brazil-Clinton, which likewise is a closer group to the suspended and compared territory than is Southern Illinois?

A. Well, I will tell you. I will answer that question in this way. I think that probably we should take the rate from Fulton-Peoria and let the other rates fall in according to their distance. Then they would be on a proper level, each group according to their mileage.

Mr. Stadell: You mean use Fulton-Peoria as a base group from the whole midwestern field, Indiana and Illinois?

The Witness: Yes.

By Mr. Vesey:

Q. In making that statement, is that your way of recognizing an imperfection in the Fulton-Peoria relationship of rates?

A. No, sir. I haven't made that study to determine just what I think Fulton County should be under Southern [fol. 1672] Illinois or vice versa, Southern Illinois over Fulton County.

Q. You mean you didn't find that just obvious by looking at the rate relationship?

A. No, I did not find it obvious. I would have to check the mileage. We couldn't set a differential at one point.

Q. I believe you answered a question of Mr. Biaett's in which you said you would be glad to make a gradation in the Holmes and Hallowell scale.

A. We are going to do that, I understand.

Exam. Trezise: He didn't say he would be glad to do it. I think he said he would do it.

By Mr. Vesey:

Q. In a recent case were you not a witness in which you complained of the rate levels from West Kentucky as against Southern Illinois on coal moving in its northern movement?

A. Yes, sir.

Mr. Biaett: What was the destination in that case?

The Witness: Northern territory, Iowa, Wisconsin, Minnesota, South Dakota.

By Mr. Vesey:

Q. In other words, in its northbound movement, so to speak, from the two fields?

A. Yes.

Q. Now, will you turn to your page 15 of Exhibit 23.

Mr. Morgan: I would like to raise an objection to the question there, unless it is limited to territories involved [fol. 1673] in this case.

Exam. Trezise: Is it limited to the comparative territory?

Mr. Vesey: Yes.

Mr. Stadell: What page was that?

Mr. Vesey: Page 15 of Exhibit 23.

The Witness: Yes, sir.

By Mr. Vesey:

Q. You will note in there, take, for example, under your 23922 scale, you show on line 13 that Southern Illinois' level is 91 per cent of that scale?

A. Yes, sir.

Q. And West Kentucky is 98 per cent of that scale?

A. Yes, sir. I noticed that.

Q. Now, on the basis of those two figures, would it not appear that West Kentucky had a higher level of rates to Beloit, Wisconsin, for example, than Southern Illinois?

A. It would appear so, yes.

Q. But, as a matter of fact, that is not true, according to your contention in the West Kentucky case, is that right?

A. That is right.

Q. Does that, therefore, mean the scale is wrong or the compilation is wrong?

A. It means there are other factors besides mileage taken into consideration in setting the Kentucky differential.

Q. It means that there are other factors besides the scale? [fols. 1674-1677] A. Besides mileage alone.

Q. Isn't it true, Mr. Rozene, in looking at the scale in and of itself, that your 23922 scale is a scale that grades off rather sharply, let us say, as you pass distances of 150 miles?

A. Well, I would have to take a good look at the scale and compare it to other scales to see how much, if any, it drops off.

* * * * * * *

[fol. 1678] By Exam. Trezise:

Q. To what destinations do you think that the differential, Southern Illinois over Fulton-Peoria, should be less than 70 cents? You said you thought it should be less than 70 cents. To what destinations?

A. Wisconsin, for instance. As I say, I haven't made a complete study of it, and I am not prepared to answer that, because we are going to answer that in the next proceeding, as I understand, try to, or show what the situation is.

Mr. McElroy: In any event, are any of those infirmities in the differential with respect to Southern Illinois, on the one hand, and Fulton County, on the other, to the intrastate destinations present in the Illinois intrastate adjustment or is the differential constant?

Mr. Cardy: Could I have that question read?

(Question read.)

The Witness: It varies between 50 and 60 cents.

Mr. Cardy: At different points?

The Witness: In some places it is 50 cents; in some places it is 60 cents.

By Mr. Vesey:

Q. To this suspended territory, there are a lot of destinations in Northern Illinois, are there not, Mr. Rozene, where——

A. Just from the figures I have before me.

Q. Well, you don't leave the impression in this record that the differential between Fulton County and Southern [fol. 1679] Illinois is 50 and 60 cents in the Northern part of the state? There are many points up there, are there not, where the differential is 70 cents, take West of Rockford and west of Freeport, for example?

A. I couldn't give you that as to Rockford; only, in so far as my Exhibit 29, it varies 50 to 60 cents. Now, what it is at other points, other than shown in my Exhibit 29, I couldn't say unless I checked them.

Q. Mr. Rozene, right in that connection, just to complete the record, take the two compared points that are in this proceeding, that are in Illinois, and just state what the differential is, Southern Illinois over Fulton-Peoria, at those two compared points, which in this case is Savanna,

Illinois, and Rock Island, Illinois? What is the differential there?

A. Well, it is 75 cents at Savanna.

Q. And 95 cents at Rock Island, is it not?

A. Yes.

Q. Your answer was yes?

A. Yes.

Q. And those are two compared points in this proceeding?

A. Yes.

By Exam. Trezise:

Q. Well, it is a fact though that the present differential, Southern Illinois over Fulton-Peoria, to these destinations that are illustrated here are generally less than 70 cents, isn't that true?

[fol. 1680] A. Yes.

Mr. Vesey: You mean to the suspended points?

The Witness: To the suspended points. They are less than 50 cents—some of them are 60 cents, that is true, but some of them are much lower than that, 35 cents, for example. Whereas, as soon as you cross the line there, the differential begins to rise, Southern Illinois over Fulton-Peoria.

Mr. Vesey: Which as I have tried to establish by my cross examination of every witness on this stand is diametrically opposed to your fundamentals in the making of rates. We assume some day logic will creep into these rates.

Exam. Trezise: So that one of the two, you are maintaining, Mr. Vesey, must be wrong. They can't both be right.

Mr. Vesey: Exactly.

Exam. Trezise: Do we have some further questions?

By Mr. Wilkinson:

Q. May I try to get this differential straightened out. Now, take the town of Sterling, Mr. Rozene, that appears on page 6 of your Exhibit No. 29. You show a rate from Peoria of $1.25 and a rate from Southern Illinois of $2.00, a differential of 75 cents.

A. That is right.

Q. You show two rates from Fulton County, one of $1.23, a difference of 76 cents, and one of $1.75, a difference of 25 cents. Now, when you talk about differentials as against

the Fulton-Peoria and Southern Illinois, which of those [fol. 1681] differentials at Sterling are you talking about?

A. I didn't mention Sterling at all. I am taking the general, where you have one rate from Fulton County and one rate from Southern Illinois.

Q. Well now, take Sterling, as between Fulton County and Southern Illinois, what is the differential there?

A. Just as I stated, there are two differentials from Fulton County. One applies from CB&Q mines, I believe, and the higher one applies from the Toledo, Peoria and Western mines.

Exam. Trezise: What the Examiner had in mind when he asked his questions were the designations of Byron, Davis, Dixon, Freeport, Ladd, Marengo, Rochelle, Rockford, St. Charles, Sycamore, and Wasco. Any further questions?

By Mr. Wilkinson:

Q. There was one other thing. I understood you to say in reply to a question from Mr. Vesey that you thought that the rates from Brazil-Clinton and from Springfield should be the same if the distance to the destination was substantially the same. Did you mean that, Mr. Rozene?

A. I can't see anything wrong with that if both have got equal distances. I can't see how one rate can be any higher than the other or why it should be any higher.

Q. Then you are not advocating at Rockford, where you show a distance from Springfield to Rockford of 257 miles, and the distance from Brazil-Clinton to Rockford via roads other than the Milwaukee as 253 miles, that the Brazil- [fol. 1682] Clinton rate should be $2.12 under the suspended rates and the Springfield rate $1.95.

A. I haven't advocated that.

Q. You don't advocate that?

A. I haven't advocated that. How could I advocate that!

Mr. Wilkinson: I just wanted to find out.

The Witness: We are fair about this. But in the same breath, you have Princeton-Ayrshire and Southern Illinois on equal distances and they should all have the same rate mile for mile. That is our principle throughout the exhibit.

By Mr. Wilkinson:

Q. And you are not advocating then the maintenance of the present relationship in the rates to these northern Illinois points as between the Indiana groups, on the one hand, and the Illinois group, on the other?

A. The present relationships?

Q. Yes, those existing under the present rates.

A. Well, I think I made my position very clear when I stated we didn't expect higher rates for lower distances, and we don't expect Indiana to have them, giving due consideration to the circuity we have in our routes.

Q. But to get it clear, you are not advocating a maintenance of the relationship that exists under the present rates from Illinois and the present rates from Indiana to these points in Northern Illinois that are here involved?

A. Well, I would have to make a thorough study here to [fol. 1683] find where the differences would be so far out there wouldn't be any rhyme or reason for maintaining them on the same basis.

Q. And I further understand that you are not supporting the carriers in their proposals where they would have Brazil-Clinton pay $2.12 for a 253 mile haul to Rockford, where Springfield operators, whom you also represent, would pay but a rate of $1.95?

Mr. Stadell: Now, just a minute. He hasn't testified in support of any of these rates from Indiana.

Mr. Wilkinson: Or from Illinois.

Mr. Stadell: He has testified in opposition to the increases from Illinois. I think his position on that is very clear.

Mr. Wilkinson: Merely in opposition to the increases from Illinois?

Mr. Stadell: In opposition to the increases from Illinois.

Mr. Wilkinson: And he has not introduced or he is not interested in the rates from Indiana?

Mr. Stadell: Very much so. The record is very clear on that.

Mr. Wilkinson: What I am trying to get at is the purpose of the witness' evidence. You are not advocating what they want to do with the rates from Indiana?

The Witness: I am here objecting to the increases being made in the rates from the State of Illinois.

[fol. 1684] Mr. Wilkinson: That is all.

Exam. Trezise: Are we through?

Mr. Boden: I would like to ask a few questions.

Exam. Trezise: Mr. Boden.

By Mr. Boden:

Q. Do I understand from your direct testimony, Mr. Rozene, that you consider the Wisconsin level of rates prescribed by the Wisconsin Commission as too low?

A. Yes, compared with the rates from Illinois.

Q. Have you compared what the rate would be from Southern Illinois under that scale, as what it would be say from Milwaukee under that scale to Beloit, which is involved in this case?

A. You mean from point to point? No, I haven't.

Q. Take Southern Illinois to Beloit, as compared with Milwaukee to Beloit, using the Wisconsin scale as a comparison.

A. No. I have compared them figuring the distances on the same basis from Southern Illinois as I have from the dock and used the 23922 scale as a yardstock.

Q. But you haven't used the Wisconsin scale?

A. No.

Q. Now, you had some testimony in here as to some six, eight and nine million tons of coal entering the lake docks of Wisconsin. Is it your idea that that moves out into Wisconsin to a great extent, particularly Southern Wisconsin?

A. Well, there is no doubt some is consumed right at the docks.

[fol. 1685] Q. You don't know the volume that moves from say the Milwaukee docks to points in Southern Wisconsin, that might be of interest to the Illinois shippers?

A. No, I don't know what amount moves in there.

Mr. Boden: That is all I have.

Exam. Trezise: Do we have any further questions?

Mr. Biaett: I have one.

Exam. Trezise: Mr. Biaett.

By Mr. Biaett:

Q. Mr. Rozene, to short haul points from the Fulton-Peoria group in Northern Illinois, say up to 160 or 170

miles, in your opinion, should there be a uniform difference in the rates between Fulton-Peoria and Southern Illinois to such points?

Mr. Cardy: I will object to that. The question of differentials shouldn't be brought into this.

Mr. Biaett: I am not asking about differentials. Well, I will ask him, should there be a differential relationship? That is the answer I want.

Mr. Cardy: Well, I will object.

Mr. McElroy: Is that addressed to the interstate adjustment up to 150 miles or the intrastate?

Mr. Cardy: I don't see how the differential adjustment comes in an I. & S. proceeding.

Mr. McElroy: I don't think so, but we have everything else in here. So I don't think we will be much more confused. [fols. 1686-1688] Mr. Cardy: All right, I will withdraw the objection.

The Witness: Well, your question is much too general to answer, Mr. Biaett. To set a differential, you can't have a different differential at every point. You are asking me up to 150 miles. I would have to make a study just how far out that would go from Fulton County or any other group and compare those mileages from Southern Illinois. I would have to study that. I can't answer that question offhand.

By Mr. Biaett:

Q. Well, in your opinion, to such short haul points, say 100 to 150 miles, if that is clearer to you, should there be any differential relationship between the rates at all?

A. Well, as I say, I would have to study it to see how far out, away from the mines you would be and where it would be. I couldn't answer that in a general way.

[fol. 1689] Morrison Hotel, Chicago, Illinois,
September 28, 1943.

The Hearing was resumed pursuant to adjournment, at 10:00 o'clock, a. m.

Before R. N. Trezise, Examiner; F. B. McElroy, Illinois Commerce Commission

Appearances:

As heretofore noted.

PROCEEDINGS

Exam. Trezise: When you are ready, gentlemen, we will continue. Who is to proceed next?

Mr. Wilkinson: I understood that we were to follow Southern Illinois in the presentation. If we are, why, we are ready to go ahead.

Exam. Trezise: Very well.

Mr. Wilkinson: Mr. Examiner, there are some of these copies of the prepared statement that Mr. Scott has made, that if the parties want it, to follow his evidence, why, we can distribute it at this time. The Exhibits which we will refer to this morning are the ones that were distributed to the parties after the pre-trial hearing.

Before proceeding, shall we identify these exhibits, Mr. Examiner, and I think that it will be clearer if they are identified as separate exhibits rather than a's pages.

[fol. 1690] Exam. Trezise: Yes, regardless of the fact that they may be bound together, if that is what you mean.

Mr. Wilkinson: Yes. May we go off the record to identify the exhibits?

Exam. Trezise: Yes.

(Discussion outside the record.)

(Exhibits Nos. 39 to 72, both inclusive, Witness Scott, marked for identification.)

HAROLD V. SCOTT was sworn and testified as follows:

Direct examination.

By Mr. Wilkinson:

Q. State your name and business address.

A. Harold V. Scott, 623 Cherry Street, Terre Haute, Indiana.

Q. With whom are you connected and in what capacity?

A. With the Coal Trade Association of Indiana, as traffic manager in charge of traffic and transportation affairs.

Q. For whom do you appear?

A. For the producers of Indiana coal who are members of the Coal Trade Association of Indiana.

Q. What is the Coal Trade Association of Indiana?

A. The Coal Trade Association of Indiana is a voluntary organization of corporations and firms that own and operate coal mines in the various producing districts in the State of Indiana; the members of this Association ship about 90 percent of the rail tonnage produced in the state.

[fol. 1691] Q. Are you familiar with the issues involved in this proceeding?

A. Yes, I am.

Q. Will you please give us a short resume of your qualifications with respect to freight rates on bituminous coal?

A. For more than twenty years I was employed in the Freight Traffic Department of the Chicago, Milwaukee, St. Paul and Pacific Railroad, the last twelve years of which were spent in the Coal Traffic Department handling freight rate adjustments on coal. This included freight rates on bituminous coal from mines in the states of Illinois, Indiana, and Western Kentucky, to the territories in which those coals are marketed as well as rates from the Lake Michigan and Lake Superior docks, from the Crescent Districts and from the Southwestern District. During that period I have prepared data for use in a large number of freight rate proceedings on bituminous coal before the Interstate Commerce Commission, as well as the various State Commissions. For the past three years I have been associated with the Coal Trade Association of Indiana as Traffic Manager, handling, among other duties, freight rates on bituminous coal.

Q. What is the position of the Indiana operators with respect to the proceeding in issue?

A. We filed a petition with the Commission seeking suspension of the rates from the Indiana mines to destinations [fol. 1692] in Northern Illinois and Beloit, Wisconsin. Our position with respect to Beloit and affected intermediate points, is that the present rates on bituminous coal from the Indiana mines are not less than reasonable maximum rates, but are relatively unreasonable and excessive and that the proposed rates would be unreasonable and excessive in violation of Section 1 of the Act. Also, the proposed increased rates to Beloit and affected intermediate points subject most of the producers and shippers of coal from Indiana mines to an undue prejudice and accord the producers and shippers of coal from Illinois an undue preference, and subject some producers and shippers of Indiana coal to an undue prejudice and accord other producers and shippers of Indiana coal an undue preference, in violation of Section 3 of the Act. Our position with respect to the rates to destinations in Northern Illinois is that the present rates on bituminous coal from Indiana mines are not less than reasonable maximum rates, but are unreasonable and excessive; the proposed increase in those rates, some of which are as much as 15 cents per ton, result in rates which are unreasonable and excessive in violation of Section 1 of the Act. Furthermore, the present and proposed rates to these Northern Illinois destinations subject the producers and shippers of coal from Indiana mines to an undue prejudice and accord the producers and shippers of coal from Illinois mines, who ship in interstate and intrastate commerce within the state of Illinois, an [fol. 1693] undue preference in violation of Sections 3 and 13 of the Act, and subject some producers and shippers of Indiana coal to an undue prejudice and accord other producers and shippers of Indiana coal an undue preference, in violation of Section 3 of the Act.

To the Northern Illinois destinations the standard differentials between the Indiana mines, on the one hand, and the Illinois mines on the other, were disrupted in 1930; such disruption has been continued in effect; to certain of these destinations a further disruption is proposed by the carriers. It is our position that under Sections 3 and 13 of the Act, the Commission should prescribe rates that

will result in the restoration of the standard differentials between the Illinois mines on the one hand and the Indiana mines on the other, and as between the Indiana mines themselves which standard differentials existed prior to 1930 to these Northern Illinois destinations, and which has existed and which exists today to the territories, north, northwest, and west of the Northern Illinois destination territory.

Q. By whom were the exhibits which you will introduce in this proceeding compiled?

A. They were compiled by me and under my direct supervision.

Q. Is the destination territory involved in this proceeding a substantial market for Indiana coal?

A. Yes, the northern part of Illinois and the southern [fol. 1694] part of Wisconsin are natural markets for Indiana coal.

Q. Can you tell us the number of tons of coal shipped from mines in Indiana to the destinations involved in this proceeding during any specific period?

A. Yes, during the eight-month period, April 1st to November 30th, 1942, there was a total of 268,430 tons shipped from the Indiana mines to the destinations involved in this proceeding.

Q. How much of this tonnage moved from mines in the Brazil-Clinton and Linton-Sullivan District?

A. 162,060 tons were shipped from mines in those two groups.

Q. What proportion of this 162,060 tons which moved from all mines in the Brazil-Clinton and Linton-Sullivan Group were shipped from mines on the C. M. St. P. & P. Railroad?

A. Out of this total of 162,060 tons shipped from all mines in the Brazil-Clinton and Linton-Sullivan Groups, a total of 122,726 tons moved from mines on the C. M. St. P. & P. Railroad in those two groups. Therefore, from mines located on railroads other than the C. M. St. P. & P., there was shipped during this period 39,334 tons. In other words, approximately 75 percent of the total tonnage shipped from the Brazil-Clinton and Linton-Sullivan Groups moved from mines on the C. M. St. P. & P. Railroad.

Q. How do the tonnages shipped from all of the mines in Indiana to this destination territory during this eight

month period compare with the tonnages shipped from [fol. 1695] mines on the C. M. St. P. & P. Railroad in the Brazil-Clinton and Linton-Sullivan Districts?

A. As previously stated, during this eight month period there was a total of 268,430 tons shipped from all mines in Indiana to the destinations involved in this proceeding and out of this total, 122,726 tons moved from mines on the C. M. St. P. & P. Railroad in the Brazil-Clinton and Linton-Sullivan Districts. Therefore, approximately 45 per cent of the total tonnage from all Indiana mines originated at mines on the C. M. St. P. & P. Railroad.

Q. Are rates in effect today from mines on the C. M. St. P. & P. Railroad in the Brazil-Clinton and Linton-Sullivan Districts to the destinations involved in this proceeding on their standard differential with rates from mines on other railroads in Illinois and Indiana?

A. The rates from mines on the C. M. St. P. & P. Railroad in the Brazil-Clinton and Linton-Sullivan Districts are on their standard differential with the rates from the Illinois Groups to Rockford, Freeport, Byron, and many other destinations. The rates from mines on other railroads in the Brazil-Clinton and Linton-Sullivan Groups and from all mines in the Princeton-Ayrshire and Boonville Groups are not on their standard differential with the Illinois Groups or with rates from the Brazil-Clinton and Linton-Sullivan mines on the C. M. St. P. & P. Railroad. These rates are on a higher basis.

Q. Is it your intention to show the rates and differentials [fol. 1696] as they now exist, as they are now proposed, and as they should be, later in your testimony?

A. Yes.

Q. Is there a substantial investment in coal mining property in Indiana?

A. Yes, there is a substantial investment in coal mining property in Indiana. The approximate figures, as compiled from information furnished us by our members, are as follows: Brazil-Clinton, $6,000,000; Linton-Sullivan, $12,000,000; Princeton-Ayrshire, $13,500,000; and Boonville $3,500,000, a total of $35,000,000.

Q. Have you prepared a map of the destination territory involved in this proceeding?

A. Yes, and it has been marked Exhibit No. 39. On this map the destination territory involved in this proceed-

ing is that within the heavy black lines, and the destinations indicated by large black dots are the representative points which have been selected by us for the purpose of comparing rates, distances, differentials, and so forth.

(Exhibit No. 39, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared exhibits which show distances, routes, rates, and composite average distances and rates to the representative points?

A. Yes.

[fol. 1697] Q. Will you now proceed to introduce these exhibits?

A. My next exhibit, which has been marked No. 40, is a statement of the present and proposed rates from the Indiana and Illinois groups to each representative destination.

(Exhibit No. 40, Witness Scott, received in evidence.)

The Witness: My next exhibit, which has been marked No. 41, is a statement showing the distances via the short tariff routes from the Indiana groups to each representative destination. To each destination the exhibit shows the origin group, initial carriers, total origin points, total miles, average distance, present rate, and the short tariff route.

(Exhibit No. 41, Witness Scott, received in evidence.)

The Witness: My next exhibit, which has been marked No. 42, is a statement showing the distance via the short tariff routes from all the Illinois groups to each representative destination. The detail shown is the same as on Exhibit No. 41 from the Indiana groups.

(Exhibit No. 42, Witness Scott, received in evidence.)

The Witness: My next exhibit, which has been marked No. 43, is a statement showing the origin points on each origin railroad in each origin group used in Exhibits Nos. 41 and 42, inclusive. Where an origin is served by more [fol. 1698] than one railroad, it is so indicated by an appropriate reference mark, such reference mark naming the railroads on which the origin is located.

(Exhibit No. 43, Witness Scott, received in evidence.)

The Witness: My next exhibit, which has been marked No. 44, is a statement showing the composité average distance via the short tariff routes from the Indiana Groups to each representative destination and to a composite of all representative points from each group and from all groups as a whole.

(Exhibit No. 44, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Mr. Scott, are you going to discuss these exhibits later on in your testimony in more detail?

A. No, sir, not these particular ones. These are the foundation for previous exhibits.

Q. Now, in your Exhibit No. 40, will you refer back to that.

A. Yes, sir.

Q. You have shown an average for these representative points in Illinois and have included in that average Beloit, Wisconsin?

A. Yes, sir.

Q. Can you give us figures which would show the average with respect to the representative destinations in Northern Illinois exclusive of Beloit?

[fol. 1699] A. Yes, I can.

Q. Can you read those slowly so that the parties could fill in the figures at the bottom of Exhibit 40, if they so desired?

A. Yes. These are the averages from the Indiana Groups to the representative points shown on that page in Northern Illinois, in other words, not including Beloit. They are, as far as Brazil-Clinton, under column A, 189; column B, 197. I will read these straight across, gentlemen. 195, 204, 204, 210.

Exam. Trezise: Where is 210?

The Witness: Under Princeton-Ayrshire, column 7. Column 8 is 206; 213, 122, 128, column 12 is 159, 163, 157, 160, 165, 169, 159, 163; under column 20, 157, 160, 183, 199; under column 24, 178, 185, 199, 204; under column 28 is 208, 213, 199, 205, 210. The last column is 215.

By Mr. Wilkinson:

Q. Now, Mr. Scott, likewise on your Exhibit No. 44, the exhibit shows averages and totals for the destinations in Northern Illinois and Beloit.

A. Yes, sir.

Q. Can you give us the figures just for the Illinois destinations?

A. Yes, I have those figures and I will call them off and they can be inserted on the exhibit.

Mr. McElroy: What exhibit is that?

The Witness: Exhibit 44. These are the grand total and averages to the representative points in Northern Illinois, [fol. 1700] in other words, not including Beloit. Under column 2 is 312, total miles is 80,242.6, average distance 257.2. Linton-Sullivan, under column 5, 348; column 6, 100,629.2; column 7, 289.1. Princeton-Ayrshire, under column 8, 339; total miles, 120,607.3; average distance, 355.8; Boonville, column 11, 96; total miles, 38,012.0; average distance, 395.9. Composite of Indiana groups, column 14, 1,095; total miles, 339,491.1; average distance, 310.0.

By Mr. Wilkinson:

Q. Now, Mr. Scott, if on any of the subsequent exhibits that you refer to as you proceed contain Illinois and Beloit combined, will you give us the figures for Illinois destinations alone, where your exhibit shows them with Illinois and Beloit combined.

A. Yes, sir. My next exhibit, which has been marked No. 45, is a statement showing the composite average distance via the short tariff routes from all the Illinois Groups to each representative destination and to a composite of all representative points from each group and from all groups as a whole. On page 5 of this exhibit, in the bottom panel, we show to all destinations the total billing points, the total miles and the average distance. This includes Beloit, Wisconsin. I would like to give the same figures for a composite of the Illinois Groups to the Northern Illinois destinations only.

Exam. Trezise: Where are you starting?

Mr. Wilkinson: At the very bottom of page 5.

[fol. 1701] The Witness: 2,953.

Mr. Stadell: Instead of 3,217?

The Witness: Not instead of it, but along with it. Total miles. 853,571.8; average distance, 289.1.

(Exhibit No. 45, Witness Scott, received in evidence.)

The Witness: My next exhibit, which has been marked No. 46, is a statement showing the composite average distance via the short tariff routes, and the composite present and proposed rate, from the Southern Illinois and Indiana Groups to the representative destinations.

Here again, I would like to give the figures to the representative points in Northern Illinois, not including Beloit, which are as follows: under column 2, 899; column 3, 333,751.8; column 4, 371.2; column 5, 1,095; column 6, 339,491.1; column 7, 310.0; column 8, 209; column 9, 215; column 10, 197; column 11, 205.

(Exhibit No. 46, Witness Scott, received in evidence.)

The Witness: My next exhibit, which has been marked No. 47, is a statement of the average distances via the short tariff routes from the Indiana Groups and from a composite of the Indiana Groups and from the Southern Illinois group to the representative destinations, and to all representative destinations as a whole, also the difference in distance [fol. 1702] the Indiana Groups are under or over Southern Illinois. The letter "a" opposite certain figures indicates the distance over Southern Illinois. All other distances shown are under Southern Illinois.

Here again, I would like to give the figures to the representative destinations in Northern Illinois, not including Beloit. Starting with column 2, and reading across the page: 371.2; 257.2; 289.1; 355.8; 395.9; 310.0; 114.0; 82.1; 15.4; a24.7; 61.2.

(Exhibit No. 47, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Will you please describe briefly the basis upon which, generally, the rates from the Illinois, Indiana and Western Kentucky mines to destinations in Northern Illinois, Wisconsin, Iowa, Minnesota, and other western states are constructed.

A. The freight rate structure on bituminous coal from mines in Illinois, Indiana and Western Kentucky to Northern Illinois, Wisconsin, Iowa, Minnesota, and to destina-

tions in other western states, is composed of the rates from nine origin groups in Illinois, five origin groups in Indiana, and one in Western Kentucky. The rates from the nine origin groups in Illinois are definitely related, as between those groups, by fixed differentials. The rates from the five origin groups in Indiana are definitely related, as between those groups, by fixed differentials. The rates from Western Kentucky are related to the rates from [fol. 1703] Southern Illinois by a fixed differential, and in addition, the rates from the nine origin groups in Illinois and the five origin groups in Indiana are related by fixed differentials.

For many years Southern Illinois has been recognized as the base group in Illinois and Brazil-Clinton as the base group in Indiana. In every general increase or decrease in, or revision of, the rates on bituminous coal, the rates were determined first from Southern Illinois, and the rates from the other Illinois groups and Western Kentucky were then determined by deducting from, or adding to, the Southern Illinois rates the standard differentials that have long existed between those groups. This procedure has been departed from in two instances, the Midland Electric Case 232 ICC 5, involving the revision of rates to destinations in the state of Iowa, in which case the Interstate Commerce Commission prescribed rates from the Fulton-Peoria Group as the base group and the rates from the other groups in Illinois were related thereto by certain differentials, and in the Fairbanks-Morse case, Docket No. 25419, and related cases, decided March 3, 1942, in which the Commission prescribed rates to Janesville and Fort Atkinson, Wisconsin, from the Fulton-Peoria Group as the base group and continued in effect the existing differentials from the other Illinois groups and the Indiana groups.

In addition to those two, the Commission used the same [fol. 1704] formula in prescribing rates in the South Dakota case.

In determining the rates from Indiana, the rates are first established from the Brazil-Clinton Group, the base group in Indiana, on the basis of the standard differential Brazil-Clinton under Southern Illinois, the base group in Illinois, and the rates from the other Indiana groups are then determined by adding to the Brazil-Clinton rates the standard differentials that have long existed between the

rates from that group, on the one hand, and the other Indiana groups on the other.

Q. State briefly how the mines in Indiana are grouped for rate making purposes and describe the differentials that apply between the various groups.

A. For rate making purposes the Indiana mines are divided into four major freight rate groups, namely: Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire, and Boonville. In addition there is one mine in Evansville and one small mine on the E. & O. V. Railroad near Evansville from which the Evansville rates apply.

Except to short haul destinations, the rates from the four major Indiana groups are differentially related. The rate from each group is a part and parcel of the entire rate structure from the mines in Indiana. Brazil-Clinton is the base group and, except to Chicago and to certain destinations in Northern Illinois such as Rockford, Freeport, and contiguous points, the rates from the other groups are differentially related over Brazil-Clinton by the amounts of 10 cents from Linton-Sullivan, 17 cents from Princeton-[fols. 1705-1707] Ayrshire, and 20 cents from Boonville. To Chicago the differential over Brazil-Clinton is 10 cents from Linton-Sullivan, 22 cents from Princeton-Ayrshire, and 25 cents from Boonville. The differentials to Chicago were established in 1927 as the result of a reduction of 5 cents in the rates from Brazil-Clinton and Linton-Sullivan Groups, which reduction was prescribed by the Interstate Commerce Commission in the Illinois-Indiana Coal Cases, 128 ICC 265. To certain destinations in Northern Illinois such as Rockford, Freeport and contiguous points the differentials over Brazil-Clinton are: Linton-Sullivan 5 cents, Princeton-Ayrshire, 12 cents, and Boonville 15 cents. This difference in differential is due to the fact that to these points the differential Linton-Sullivan over Brazil-Clinton was 5 cents in lieu of the standard differential of 10 cents.

Q. Will you state on what basis rates are maintained from Indiana mines to this destination territory?

A. To this entire Northwest destination territory, except the certain Northern Illinois points referred to, the differential Brazil-Clinton under Southern Illinois is, and has been, 30 cents and the differential under Southern Illinois from the other Indiana groups are: Linton-Sullivan 20 cents, Princeton-Ayrshire 13 cents and Boonville 10 cents.

These differentials have applied generally in this territory for many, many years.

. . . . . .

[fol. 1708] By Mr. Wilkinson:

Q. Mr. Scott; to your knowledge, and from your study of rate histories, can you tell us approximately how many years this differential adjustment that you have described to Eastern Iowa, Southeastern Minnesota, Wisconsin and Northern Illinois has existed?

A. Yes, sir. It has existed for more than 20 or 25 years.

Mr. Biaett: Your statement says it has existed for more than 25 years.

The Witness: Yes, sir.

By Mr. Wilkinson:

Q. Now, Mr. Scott, will you proceed with your statement.

A. To the certain destinations in Northern Illinois, such as Rockford and Freeport, the differentials under Southern Illinois were on the following basis: Brazil-Clinton 30 cents under, Linton-Sullivan 25 cents under, Princeton-Ayrshire 18 cents under and Boonville 15 cents under. As previously stated, this difference in differentials was due to the fact that the differential Linton-Sullivan over Brazil-Clinton was 5 cents in lieu of the standard differential of 10 cents.

Q. You stated that these differentials to Northern Illinois "were" in effect. Will you tell us what they are today and how the change was brought about?

A. The differentials, which had been in effect for years, Indiana groups under Southern Illinois of 30 cents from [fol. 1709] Brazil-Clinton, 25 cents from Linton-Sullivan, 18 cents from Princeton-Ayrshire, and 15 cents from Boonville to Northern Illinois were disrupted by the order of the Illinois Commerce Commission in Docket Nos. 13569 and 13558, in which that Commission reduced the rates from Southern Illinois to Rockford and Freeport from $2.17 to $2.00 per ton and ordered the continuation of the differentials between the rates from Southern Illinois, on the one hand, and the other Illinois groups on the other; the effect of which was to reduce rates from all Illinois groups by 17 cents. These rates were published effective August

20, 1930. Later, the Illinois Commerce Commission issued its order in Docket No. 14009 which prescribed a reduction of 14 cents per ton in the rates from the Springfield and Southern Illinois groups to Dixon, the Southern Illinois rate being reduced from $2.04 to $1.90 and the Springfield rate from $1.74 to $1.60. These rates were published effective July 1, 1930.

These reductions in the Illinois rates resulted in the narrowing of the differential Brazil-Clinton under Southern Illinois to Rockford, Freeport and affected intermediate points from 30 cents to 13 cents per ton and to Dixon and affected intermediate points from 30 cents to 16 cents per ton. Likewise, it narrowed the differentials by the same amount in cents per ton between the other Illinois groups, on the one hand, and the Indiana groups on the other.

When these 1930 reductions in Illinois intrastate rates [fol. 1710] were made, no corresponding reductions were made in the rates from the Indiana mines. The failure of the Indiana railroads to reduce the Indiana rates in harmony with the Illinois reductions resulted in complete disruption of the relationship which had been in existence for many years.

Q. Do you have a map which shows this northwest destination territory and the differentials, Indiana groups versus Southern Illinois, applicable thereto?

A. Yes, and it has been marked Exhibit No. 48. On this map we have shown by heavy black boundary lines, the destination territories and the differentials, Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Boonville under Southern Illinois which applies in connection with the rates to each of the destination areas.

To the Chicago district, the differentials under Southern Illinois are: Brazil-Clinton 40 cents, Linton-Sullivan 30 cents, Princeton-Ayrshire 18 cents, and Boonville 15 cents. To the destinations in eastern Wisconsin located generally along the Lake Michigan shore, the differentials are 35, 25, 18 and 15 cents. To the remainder of the State of Wisconsin, to Southeastern Minnesota and Northeastern Iowa, the differentials are 30, 20, 13 and 10 cents. The same differentials applied to all of Northern Illinois prior to the 1930 Illinois reductions with the exception of the rates to Rockford, Freeport and affected intermediate points where [fol. 1711] the differentials under Southern Illinois were: Brazil-Clinton 30 cents, Linton-Sullivan 25 cents, Princeton-

Ayrshire 18 cents and Boonville 15 cents. As previously explained, this difference was due to the fact that to Rockford, Freeport and affected intermediate points, the differential Linton-Sullivan over Brazil-Clinton was 5 cents in lieu of the standard differential of 10 cents. To the remainder of Iowa and Minnesota and to the states of North Dakota, South Dakota and Nebraska, the differentials Indiana versus Southern Illinois are: Brazil-Clinton 10 cents under Southern Illinois, Linton-Sullivan the same rate, Princeton-Ayrshire 7 cents over, and Boonville 10 cents over. Of the total Indiana shipments to this northwest territory, a very small percentage less than 10 per cent, moves to this latter territory.

Q. What differentials apply as between the Indiana rate origin groups to all the territory shown on this exhibit?

A. Except to Chicago and the Rockford-Freeport territory, the Indiana groups are the following amounts over Brazil-Clinton, the base group: Linton-Sullivan 10 cents, Princeton-Ayrshire 17 cents, and Boonville 20 cents.

Q. Are the rates to Northern Illinois a part of the rate structure that applies generally to the territory outlined on the map which has been marked Exhibit No. 48?

A. Yes, the rates to Northern Illinois are part of the rate structure applying to the territory north, northwest and [fol. 1712] west of Chicago. Therefore, the rate differential relationship as between the Illinois groups themselves, as between the Indiana groups themselves, and as between the Illinois, Indiana, and Western Kentucky groups should be on the same basis. There can be no justification for a different basis of differentials to Northern Illinois than applies generally to Wisconsin, Northeastern Iowa and Southeastern Minnesota, of which destination territory Northern Illinois is an integral part.

Q. Have these differentials ever been the subject of a proceeding before the Interstate Commerce Commission?

* * * * * * *

[fol. 1713] The Witness: The question of the differentials was also before the Commission in I&S Docket No. 4368, decided April 10, 1939, and reported in 232 ICC 151, which proceeding involved rates from mines in Illinois, Indiana, and Western Kentucky to Beloit, Wisconsin, and destina-
[fol. 1714] tions in Northern Illinois. In that proceeding

the carriers proposed to disrupt the relationship between the Illinois rates on the one hand and the Princeton and Boonville Group rates on the other, as well as the relationship between the Brazil-Clinton and Linton-Sullivan Groups on the one hand and the Princeton-Ayrshire and Boonville Groups on the other. The Commission found——

Mr. Stadell: Now, I have the same objection to the next sentence in which the witness states his conclusion as to what the Commission found in that case, and I ask that it be stricken.

Mr. Wilkinson: Well, suppose he reads it first. Then make your motion afterwards.

Mr. Stadell: Well, I object to him stating it in his testimony in the record.

Mr. Morgan: I join in that objection too.

Exam. Trezise: Have you a method of avoiding that objection by stating it in another way?

Mr. Wilkinson: Yes, you could word it this way and substitute this for the last sentence of that paragraph: The Commission approved certain rates set out in its order in that case, which rates would have resulted in differentials which I have heretofore stated are the standard differentials.

Mr. Stadell: Same objection to that statement. It still substitutes Mr. Wilkinson's conclusion as to what the Com- [fol. 1715] mission found for the statement in the Commission's report.

Mr. Wilkinson: They found rates. I didn't say what rates.

Exam. Trezise: I think we will let it stand. We can't be too technical about it. The Commission is not going to be misled, I hope, by its own decisions.

Mr. Wilkinson: I am very sure, Mr. Trezise, the Examiner, writing this report, is very familiar with all these proceedings.

Exam. Trezise: Let us pass it. Go ahead with the testimony. Now, have you modified the testimony according to the statement of Mr. Wilkinson here, and does the witness adopt that as his testimony?

The Witness: Correct.

By Mr. Wilkinson:

Q. Would the establishment of the suspended rates to destinations in Northern Illinois result in a differential relationship between the Indiana groups on the one hand, and the Illinois groups on the other, the same as that which existed between those groups prior to the reduction in Illinois rates made in 1930?

A. No, the suspended rates to Northern Illinois destinations would result in: (1) to most of the destinations a continuation of the disruption in differentials between the Illinois groups on the one hand, and the Indiana groups on the other, which disruption was first made in 1930; (2) to other destinations it will further disrupt the differential relationship between the Illinois groups and the Indiana [fol. 1716] groups; (3) to other destinations it will, for the first time, disrupt the standard differential relationship between the Illinois groups on the one hand, and the Indiana groups on the other, which differential relationship has existed for many years; and (4) to some destinations the standard differentials between the Indiana groups will be disrupted.

(Exhibit No. 48, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared an exhibit comparing the short tariff route distances from Southern Illinois with those from the Indiana groups to points in Minnesota, Iowa and Wisconsin as shown in Appendix "D" of the decision of the Commission in Docket No. 25595, reported in 204 ICC 225 with those to the representative destinations in the territory here involved?

A. Yes, and it has been marked Exhibit No. 49. This is a statement showing the distances to stations in Minnesota, Iowa and Wisconsin enumerated in Appendix "D" of the decision in ICC Docket No. 25595 showing the short tariff route distances from Southern Illinois and the Indiana groups, and the composite short tariff route distance to each state and, on page 2, the composite to the 70 destinations; there is also shown on page 2 of this exhibit the same information to the representative destinations in Northern Illinois and Beloit and the difference in distance the Indiana [fol. 1717] groups are under or over Southern Illinois.

Now, in that connection I would like to correct a typographical error on page 2. Under column 3, the last figure in the column, which is 371.6, will you please make that 374.0.

Q. Can you give us what the averages would be in that last panel on page 2 of the exhibit, if you eliminate Beloit and show only the average to the representative destinations in Northern Illinois?

A. Yes, those figures would be as follows: under column 3, and across the board, 371.2; 257.2; 289.1; 355.8; 395.9; 114.0; 82.1; 15.4; and the last column is a24.7.

(Exhibit No. 49, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. What are the differences in distance, Southern Illinois versus each of the Indiana origin groups, to the representative destinations, based upon the composite average distance?

A. The differences in distance to the representative destinations including Beloit, page 2 of this exhibit, are: Brazil-Clinton, 115.8 miles under Southern Illinois, Linton-Sullivan 83.6 miles under Southern Illinois, Princeton-Ayrshire 16.4 miles under Southern Illinois, and Boonville 23.4 miles over Southern Illinois.

[fol. 1718] Q. Now, those figures include Beloit?

A. Yes, sir.

Q. And if you excluded Beloit, the figures would be the ones you read into the record just a moment ago?

A. That is correct, sir.

Q. How do the differences in distance to the 70 points included in Appendix "D" of Docket No. 25595 compare with the differences in distance to the representative destinations in the territory involved in this proceeding?

A. The differences in distance as shown on page 2 of Exhibit No. 49 are as follows: from Brazil-Clinton to the 70 representative destinations in Docket No. 25595, the difference in distance under Southern Illinois was 77 miles, while to the representative destinations in Northern Illinois and Beloit the difference in distance is 115.8 miles, a difference of 38.8 miles in favor of the Northern Illinois-Southern Wisconsin destinations.

Q. Now, if you excluded Beloit?

A. If you excluded Beloit, the differences would be 114.0 miles, a difference of 37.0 miles in favor of Northern Illinois.

Q. Then that is to say that the difference in distance in favor of the Indiana groups as a whole to these destinations in Northern Illinois is 114 miles in favor of Indiana as against Southern Illinois?

A. That is correct.

[fol. 1719] Q. Whereas, as to the 70 points in Docket 25595 the difference in favor of all of Indiana as compared to Southern Illinois was 77 miles.

A. That is correct.

Mr. Stadell: May I ask a question right there. Are you talking about all of Indiana under Southern Illinois, or Brazil-Clinton?

The Witness: Brazil-Clinton. If we said all of Indiana, it should have been Brazil-Clinton.

Mr. Wilkinson: It should have been Brazil-Clinton. Excuse me. Now, will you proceed with your statement, Mr. Scott.

The Witness: Linton-Sullivan to the 70 destinations is 49 miles under, while to the representative destinations in Northern Illinois, including Beloit, it is 83.6 miles, a difference of 34.6 miles in favor of the Northern Illinois-Southern Wisconsin destinations to the representative destinations in Northern Illinois only it is 82.1 miles, a difference of 33.1 miles in favor of the Northern Illinois destinations.

By Mr. Wilkinson:

Q. You mean in favor of Linton-Sullivan to the destinations in Northern Illinois and Beloit?

A. Yes, sir. From the Princeton-Ayrshire District to the 70 destinations the distance exceeded Southern Illinois by 20 miles, while to the representative destinations in Northern Illinois-Southern Wisconsin it is 16.4 miles under Southern Illinois, a difference in distance of 36.4 miles in [fol. 1720] favor of Northern Illinois-Southern Wisconsin destinations; to the Northern Illinois destinations only, that is not including Beloit, the difference in distance is 35.4 miles in favor of Northern Illinois destinations.

From the Boo ville District the distance to the 70 destinations exceeded Southern Illinois by 70 miles, while to the representative destinations, including Beloit, the distance

exceeds Southern Illinois by 23.4 miles, a difference in distance of 46.6 miles in favor of the Northern Illinois-Southern Wisconsin destinations; and to the representative destinations in Northern Illinois, not including Beloit, a difference in distance of 45.3 miles.

Q. What you mean by that last paragraph is that the amount by which the distance from Boonville exceeds Southern Illinois is less to these destinations in Northern Illinois than it is to the 70 destinations shown in the other group?

A. Yes, sir.

Q. What were the issues involved in the case to which you have referred?

Mr. Stadell: Now, I object to that question, Mr. Examiner. The Commission's report will show what the issues were.

Mr. Morgan: I object. It is purely argumentative.

Mr. Stadell: Certainly it is argumentative in view of the statements Mr. Scott was contributing to the Commission a while ago.

[fol. 1721] Exam. Trezise: I think you can tell what the allegations were in the complaint, if you remember. I think that is proper. Go ahead.

The Witness: That complaint involved the differential relationship between Southern Illinois, on the one hand, and the Indiana groups on the other to destinations in Wisconsin, Southeastern Minnesota and Northeastern Iowa.

[fol. 1722] By Mr. Wilkinson:

Q. You have referred to the disruption of the 30 cent differential Brazil-Clinton under Southern Illinois to destinations in Northern Illinois in 1930-1932, and, in addition, have stated that the rates now under suspension would result in a further disruption to some of these points and would also disrupt the 30 cent differential for the first time to other of these points.

A. Yes, that is correct.

Q. Do you have a map on which this situation is indicated?

A. Yes, and it has been marked Exhibit No. 50. This map shows Beloit, Wisconsin and the Northern Illinois destination territory involved in this proceeding. The colored lines of blue, green, and red, indicate the destinations involved in this adjustment which are not on the stand-

ard differential Brazil-Clinton 30 cents under Southern Illinois, or to which the present standard differential of 30 cents would be disrupted by the establishment of the suspended rates.

To all this territory the standard differential of 30 cents Brazil-Clinton under Southern Illinois was in effect prior to the reductions ordered by the Illinois Commerce Commission in 1930.

The blue lines indicate the destinations to which this standard differential was disrupted in 1930-1932, because of the reductions made in the Illinois rates in compliance with the orders of the Illinois Commerce Commission in the Rockford-Freeport-Dixon Cases.

[fol. 1723] The green line indicates the destinations to which the standard differential was disrupted in 1930-1932, and to which the rates now proposed by the carriers would result in a further disruption. For example, to stations Wasco, Lilly Lake, Virgil, and Richardson on the Chicago Great Western Railroad, located between Chicago and Sycamore, in the eastern part of this territory and indicated by a green line, the present differential Brazil-Clinton under Southern Illinois is 21 cents per ton, which differential was formerly 30 cents but was narrowed by the 1930-1932 reduction in Illinois rates: In this proceeding the carriers are now proposing to further narrow this differential to 16 cents, Brazil-Clinton under Southern Illinois.

The red lines indicate the stations to which the differential Brazil-Clinton under Southern Illinois is today the standard differential of 30 cents, but to which the rates proposed by the carriers and under suspension in this proceeding would disrupt this standard differential by varying amounts.

For example, to Harper, Lanark, and Fay, Illinois, on the C. M. St. P. & P. Railroad in the western part of this territory, and outlined in red, the suspended rates result in the narrowing of the differential Brazil-Clinton under Southern Illinois from 30 cents to 25 cents except from mines on the C. M. St. P. & P. Railroad. To stations Florence and Shannon, it is proposed to narrow the differential from 30 to 13 cents except from mines on the C. M. St. P. & P. Likewise to stations Shirland, Durand, Davis, Rock City and Dakota, it is proposed to narrow the differential from 30 cents to [fol. 1724] 23 cents from all mines. The same situation exists to some stations on other railroads. For example,

to Gilberts, Huntley, Union, Marengo, and Garden Prairie, located on the Chicago and North Western Railroad west of Chicago, and indicated by a red line, it is proposed to reduce the present differential of 30 cents to 28 cents.

We have shown in this exhibit how the standard differential of 30 cents Brazil-Clinton under Southern Illinois has been disrupted, how it is proposed to make a further disruption and to create new disruptions. What has been shown with respect to Brazil-Clinton versus Southern Illinois is also true with respect to the differentials from the Linton-Sullivan, Princeton-Ayrshire and Boonville groups versus the Southern Illinois group as well as other groups in Illinois.

(Exhibit No. 50, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared a statement which shows a history of the rates and differentials from the Southern Illinois, Springfield and Brazil-Clinton Groups to the representative destinations in Northern Illinois?

Mr. Wood: Before he answers that question, may I inquire as to the continued use of the word "standard" with reference to differentials?

Mr. Wilkinson: The purpose of that is to try to conserve time, because by the use of "standard differentials" we [fol. 1725] mean a differential of Brazil-Clinton 30 cents under Southern Illinois and the rates from Indiana, Linton-Sullivan 10 cents over Brazil-Clinton, Linton-Sullivan 17 cents over Brazil-Clinton, and Boonville 20 cents over Brazil-Clinton. By saying the "standard differential" we save time rather than to give you all of that statement I just made.

Mr. Wood: Why not just say "differentials."

Exam. Trezise: Are you satisfied?

Mr. Wood: No, I am not satisfied with the continued use of "standard" in there. It is argumentative and an editorial comment.

Mr. Kaier: It is defined pretty clearly now, Mr. Examiner.

Exam. Trezise: The thing that doesn't seem to be exactly clear from your testimony—it is clear from your witnesses—when you say the rates under suspension would do this,

and the rates under suspension would do that. Now, what rates under suspension? You mean the state rates, or do you mean the interstate rates, or do you mean both the state rates and the interstate rates?

The Witness: Both the state rates and the interstate rates.

Mr. McElroy: Well, you haven't any state rates from Indiana mines.

The Witness: When I talk about the differential Southern Illinois versus Indiana to Rockford, for example, I am talk-
[fols. 1726-1727] ing about the Illinois intrastate rates, Southern Illinois to Rockford, and the interstate rates from Indiana to Rockford.

Exam. Trezise: So that in each instance where you say the rates under suspension, you may in most instances involve both the state and the interstate rates under suspension, and in other instances it probably involves only one of them?

The Witness: Yes, sir, that would be right.

. . . . . .

[fol. 1728] By Mr. Wilkinson:

Q. Have you prepared a statement which shows a history of the rates and differentials from the Southern Illinois, Springfield and Brazil-Clinton groups to the representative destinations in Northern Illinois?

A. Yes, and it has been marked Exhibit No. 51. This is [fol. 1729] a statement showing the rates from the Southern Illinois, Springfield, and Brazil-Clinton groups to the representative destinations, in effect on July 19, 1925, in 1930-1932, at the present time and those now proposed, also the differential relationship Brazil-Clinton under Southern Illinois, Brazil-Clinton versus Springfield and Springfield versus Southern Illinois.

The July 19, 1925 rates were published by the carriers as a result of the so-called Blue Book check, the purpose of which was to restore the origin group differentials which had been disrupted by the percentage increase on August 26, 1920, as authorized by Ex Parte 74 and the 10 per cent reduction of July 1, 1922. Following the general percentage increase in 1920 and the 10 per cent reduction in 1922, efforts were made by the operators and the carriers to restore the standard differentials and an exhaustive check

and revision of the rates by the carriers was undertaken, the result of which was released in the so-called Blue Book Publication Announcement, C. C. P. A. 117, which was published in January, 1925, to become effective February 19, 1925, but which were suspended upon protest. During the period of suspension, conferences were held by the shippers and carriers with the Interstate Commerce Commission with a view to making certain changes in the proposed rates. Director Hardie of the Bureau of Traffic and Messrs. Ward and Powers of the Suspension Board of the [fol. 1730] Interstate Commerce Commission actively participated in these conferences. After certain minor adjustments were made in the proposed rates the suspension was withdrawn and the rates became effective on July 19, 1925.

The 1930-1932 rates from the Southern Illinois and Springfield groups are those established pursuant to the orders of the Illinois Commerce Commission; the present rates are those now in effect and the proposed rates are those under suspension in this proceeding.

Exam. Trezise: Is that in the Rockford-Freeport cases, the 1930-1932 cases?

The Witness: Yes.

Mr. Wilkinson: Rockford, Freeport and Dixon rates.

The Witness: Particular attention is directed to the lower panel of this exhibit. On July 19, 1925, the differential Brazil-Clinton under Southern Illinois was uniformly 30 cents per ton, and Brazil-Clinton and Springfield were on the same basis. The differential Springfield under Southern Illinois was uniformly 30 cents per ton. However, the 1930-1932 rates resulted in the narrowing of the differential Brazil-Clinton under Southern Illinois from 30 cents to 13 cents in some instances, particularly to such important consuming points as Rockford and Freeport, and from 30 to 16 cents to other destinations including such important points as Dixon, St. Charles, Rochelle and others. Likewise, the publication of reduced rates on that [fol. 1731] date from the Springfield Group resulted in a differential Brazil-Clinton versus Springfield of 17 cents Brazil-Clinton over Springfield to some of the destinations and 14 cents to others. Particular attention is directed to the fact that the 1930-1932 rates continued in effect the

standard differential of 30 cents Springfield under Southern Illinois.

The present rates continue in effect the disrupted differential adjustment Brazil-Clinton versus Southern Illinois, resulting from the reduced rates published from the Illinois mines in 1930-1932, except to Stations Byron, Freeport and Rockford from mines on the C. M. St. P. & P. Railroad via that railroad direct. The restoration of the 30 cents differential from those mines is due to the action of the Milwaukee in later voluntarily reducing its rates to Rockford and Freeport and intermediate points the same amount in cents per ton as was made from the Illinois groups in order to restore its differential with those groups.

The carriers are now proposing not only to continue these disrupted differentials in effect but are proposing to other destinations to create disruptions for the first time. For example, to Davis the differential has been and is the standard differential of 30 cents, but the carriers are proposing to narrow this differential to 23 cents except from mines on the C. M. St. P. & P. Railroad. To Lanark and [fol. 1732] Marengo, the differential has been and is the standard differential of 30 cents, but the carriers are now proposing to reduce Lanark to 25 cents, except from mines on the C. M. St. P. & P. Railroad, and to narrow the Marengo differential to 28 cents from all mines in that group. It will also be noted that to Wasco they are proposing to narrow the present differential from 21 cents to 16 cents under Southern Illinois, although the standard differential on July 19, 1925, was 30 cents.

This exhibit deals with the rates and differentials from the Southern Illinois and Springfield Groups on the one hand, and the Brazil-Clinton Group on the other. The Brazil-Clinton Group has been used as representative of the Indiana Groups because it is the base group in Indiana. The other groups in Indiana, namely, the Linton-Sullivan, Princeton-Ayrshire, and Boonville Groups, are affected to the same extent as is the Brazil-Clinton Group inasmuch as those groups are related to the Brazil-Clinton Group and to the Illinois Groups by fixed differentials.

Mr. McElroy: Right at that point, Mr. Scott, may I ask you this question: you speak of the proposed disruption of the differential to Marengo and Wasco, by the carriers. Is that proposed disruption affected by any outstanding order

of the Interstate Commerce Commission, do you know, or is that a voluntary action of the carriers?

The Witness: That is a voluntary action of the carriers [fol. 1733] in making this adjustment that is before us.

By Mr. Wilkinson:

Q. What are the carriers proposing with respect to the differential Springfield under Southern Illinois to these representative destinations?

A. This exhibit shows the carriers are proposing the continuation of the 30 cent standard differential Springfield under Southern Illinois to these representative destinations with the exception of Lanark, where it is proposed to make the differential 35 cents.

Q. Now, let me interpolate there, do the carriers propose to maintain the present differentials as between the groups in Illinois other than Springfield and Southern Illinois, that is, as between Southern Illinois and Belleville, Southern Illinois and DuQuoin, Southern Illinois and Centralia?

A. Yes, sir, they do.

Q. The carriers on a previous occasion attempted to adjust the rates from the Illinois mines and the Indiana mines to this destination territory, under I&S Docket No. 4368. Are you familiar with that proceeding?

A. Yes, I am. In that proceeding the carriers published rates effective June 1, 1937, from the Illinois, Indiana and Western Kentucky Groups to these destinations. The rates were suspended and hearings were held, in which this Association actively participated.

Q. Were the differentials proposed by the carriers at [fol. 1734] that time the same as they are now proposing in the proceeding here under consideration?

A. No, the differentials between the Indiana groups on the one hand, and the Illinois groups on the other, involved in that adjustment, are not the same as here proposed. In the I&S 4368 proceeding, the carriers proposed increased rates to Northern Illinois and Beloit and to most of the destination territory the restoration of the 30 cent differential Brazil-Clinton under Southern Illinois, and also rates from the Linton-Sullivan Group based 10 cents over Brazil-Clinton and 20 cents under Southern Illinois. However, the carriers did not propose to restore the standard differentials between the Illinois mines on the one hand, and the

Princeton-Ayrshire and Boonville Groups on the other, and between the Brazil-Clinton Groups on the one hand and the Princeton-Ayrshire and Boonville Groups on the other, but proposed to further disrupt those differentials.

The rates were suspended by both the Interstate Commerce Commission and the Illinois Commerce Commission and a joint hearing was held. The Interstate Commerce Commission in their decision, reported in 232 ICC 151, found justified the proposed rates from the Illinois groups and from the Brazil-Clinton and Linton-Sullivan Groups but found not justified the proposed rates from the Princeton-Ayrshire and Boonville Groups in so far as they exceeded the rates from the Brazil-Clinton and Linton-Sullivan [fol. 1735] Groups and the Illinois Groups by more than their standard differentials.

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[fol. 1736] The Witness: Following the decision of the Interstate Commerce Commission, the Illinois Commerce Commission issued its decision finding not justified the proposed increases and ordered the suspended schedules withdrawn. The carriers then filed a 13th Section petition with the Interstate Commerce Commission alleging that the existing Illinois intrastate rates were in violation of Section 13 of the Interstate Commerce Act and asked that the Commission prescribe rates for the transportation of bituminous coal moving in intrastate commerce within the State of Illinois on a basis not lower than proposed by the carriers on interstate traffic. They also petitioned for reopening and rehearing in the I&S 4368 Case. The Interstate Commerce Commission granted both petitions and assigned them for hearing; however, just prior to the hearing, the carriers withdrew the Section 13 petition and also their petition for rehearing in the I&S 4368 Case. They then petitioned the Interstate Commerce Commission and secured permission to withdraw the proposed increased rates from the Indiana mines and at the same time withdrew the proposed increased intrastate rates. In the publication in-[fol. 1737] volved in this proceeding the carriers are not proposing the restoration of the standard differential of 30 cents Brazil-Clinton under Southern Illinois or the standard differential between the other Indiana groups and the Illinois groups.

(Exhibit No. 51, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared an exhibit which shows the rates from the Southern Illinois and Indiana Groups as proposed in I&S 4368, as in effect at the present time, and as now proposed, as well as the differential relationships resulting from such rates?

A. Yes, and it has been marked Exhibit No. 52. On page 1 of this exhibit is shown the rates from the Southern Illinois Group and the four Indiana Groups in effect, prior to the decision of the Commission in I&S 4368, as proposed by the carriers and as approved by the Interstate Commerce Commission in I&S Docket 4368, at the present time and as now proposed. In the I&S Docket 4368 adjustment, the Commission approved the rates proposed by the carriers from the Southern Illinois, Brazil-Clinton and Linton-Sullivan Groups. They did not, however, approve the rates proposed by the carriers from the Princeton-Ayrshire and Boonville Groups, but did approve rates from those groups on the basis of their standard differential over the other Indiana Groups, and between the Princeton-Ayrshire and Boonville Groups and the Illinois Groups. In their decision [fol. 1738] in that case the Commission found that from the Princeton-Ayrshire Group and the Boonville Group any greater differentials than the standard differentials would result in rates which would be unduly prejudicial to shippers and producers in the Princeton-Ayrshire and Boonville Groups and unduly preferential of their competitors in the other Indiana and Illinois Groups.

On page 2 of this exhibit is shown the differentials Indiana groups under Southern Illinois in effect prior to the decision of the Commission in I&S Docket No. 4368, as proposed and as approved in I&S 4368, at the present time and as now proposed.

From the Brazil-Clinton Group the carriers proposed and the Commission approved in the I&S 4368 adjustment, the standard differential of 30 cents Brazil-Clinton under Southern Illinois to all of the representative destinations except Dixon, Ladd and Rochelle. The carriers, however, are now proposing the 30 cent differential only from mines on the C. M. St. P. & P. Railroad to Beloit, Byron, Freeport, Lanark and Rockford, but from all other mines they are proposing a differential Brazil-Clinton under Southern Illinois ranging from 13 to 28 cents.

By Mr. Wilkinson:

Q. Going back to where you say, from all other mines they are proposing a differential Brazil-Clinton under Southern Illinois ranging from 13 to 28 cents, in the proposal of the carriers does the Illinois Central Railroad propose rates from its mines in the Linton-Sullivan District [fol. 1739] to Rockford for direct shipment via the Illinois Central the same level as the rates proposed from mines on the Chicago, Milwaukee, St. Paul and Pacific to Rockford via the St. Paul's line direct?

A. Yes, sir, they do.

Q. So to that extent this statement that all other mines and so on, is incorrect, in so far as Rockford is concerned?

A. That is right. The exception should be from the Illinois Central mines in the Linton-Sullivan group to Rockford and Freeport.

Exam. Trezise: Mr. Scott, I worked on that exhibit. This column, I&S 4368, proposed and approved, in your Exhibit 52, and I seemed to work that out, that that was a rate that was approved without the increases that have subsequently been made, and that your other column over here, the one proposed in the present proceeding here, is a rate with the increases on it, is that right?

The Witness: That is right, sir. The I&S 4368, as I recall it, at that time when that proceeding was before the Commission, there were no increases in effect, as I recall it, or at least if there were, they were of a temporary nature.

Exam. Trezise: You just copied the rates out of the report?

The Witness: Definitely, the rates are quoted from the decision.

Exam. Trezise: And, of course, what is proposed in the present proceeding is the rates with possibly such increases?

[fol. 1740] The Witness: Yes, sir.

Exam. Trezise: And I couldn't figure out just exactly whether that was true in all instances or not.

The Witness: Yes, the rates shown under the heading I&S 4368, proposed and approved, are the rates that were in effect at that time and which did not include the permanent Ex Parte 115 reopened increases. The rates shown as present and proposed do include the permanent Ex Parte

115 reopened increases, because those have since been made a permanent part of the rate structure.

Exam. Trezise: Thank you.

Mr. Wilkinson: Now, will you proceed, Mr. Scott.

The Witness: From the Linton-Sullivan Group the carriers proposed and the Commission approved, in the I&S Docket 4368 adjustment, the standard differential Linton-Sullivan under Southern Illinois of 20 cents except to Dixon, Ladd and Rochelle. However, the carriers are now proposing this 20 cent differential only from mines on the Chicago, Milwaukee, St. Paul & Pacific Railroad to Beloit, Byron and Lanark and from mines on the Chicago, Milwaukee, St. Paul & Pacific and Illinois Central Railroads to Freeport and Rockford. From all other mines they are proposing a differential ranging from 8 to 18 cents. From the Princeton-Ayrshire Group, the carriers in the I&S 4368 adjustment proposed a differential under Southern Illinois ranging from rates on the same basis as Southern Illinois [fol. 1741] to 8 cents under Southern Illinois. The Commission did not approve the basis proposed by the carriers, but approved rates based on their standard differential of 7 cents over Linton-Sullivan to all destinations and their standard differential of 13 cents under Southern Illinois to all destinations except Dixon, Ladd and Rochelle.

The carriers are now proposing a differential ranging from the standard differential of 13 cents under Southern Illinois to 1 cent over Southern Illinois. From the Boonville Group the carriers proposed in I&S 4368 a differential under Southern Illinois ranging from 5 cents under to 3 cents over the Southern Illinois rates. The Commission did not approve the differentials proposed by the carriers but did approve rates based on the standard differential of 3 cents over the Princeton-Ayrshire Group to all destinations and the standard differential of 10 cents Boonville under Southern Illinois to all destinations except Dixon, Ladd, and Rochelle. The carriers are now proposing a differential ranging from 13 cents under Southern Illinois to 4 cents over Southern Illinois.

Mr. Cardy: That is from Boonville?

The Witness: Yes, sir. The exceptions made at Dixon, Ladd, and Rochelle are due to the fact that from the Brazil-Clinton Group and the Linton-Sullivan Group the carriers, under the I&S 4368 Adjustment, did not propose the restoration of the standard differential of 30 cents Brazil-

[fol. 1742] Clinton under Southern Illinois, but proposed a differential of 20 cents to Dixon and Ladd and 25 cents to Rochelle.

(Exhibit No. 52, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Do you have a statement showing the difference in distances via the short tariff routes each Indiana Group is under Southern Illinois to each representative destination, and to a composite of all destinations, showing the present and proposed rate differentials?

A. Yes, and it has been marked Exhibit No. 53. This is a statement showing the difference in distance each Indiana group is under Southern Illinois to the representative destinations and to a composite of all representative destinations, and the present and proposed rate differentials. Particular attention is directed to the composite of all destinations at the bottom of the page, where it is shown that for a difference in distance Brazil-Clinton under Southern Illinois of 145.8 miles, the present differential is 22 cents and it is now proposed to narrow this differential to 18 cents. From the Linton-Sullivan Group for a difference in distance of 83.6 miles under Southern Illinois the present differential is 15 cents and the proposed differential 11 cents under Southern Illinois. From the Princeton-Ayrshire Group for a difference in distance of 16.4 miles under Southern Illinois, the present differential is 7 cents and the proposed differential 4 cents under Southern Illinois, [fol. 1743]. From the Boonville District for a difference in distance Boonville over Southern Illinois of 23.4 miles, the present differential is Boonville 4 cents under Southern Illinois.

Q. Can you give us what those differences are to just the Northern Illinois destinations, exclusive of Beloit?

A. Yes. To the Northern Illinois destinations only——

Mr. Biaett: Hasn't he given us that once before?

Mr. Wilkinson: Can you correct that on the exhibit, Mr. Scott?

The Witness: Yes, sir.

Mr. Wilkinson: All right, if you will give us it, so we can put it in at the bottom of the exhibit.

The Witness: To the Northern Illinois destinations, not including Beloit, the difference in distances, Indiana Groups over or under Southern Illinois, is as follows: starting with column 2, and going across, minus 114.0; under column 3 it is minus 83.1; minus 15.4; plus 24.7; minus 21; minus 18; minus 15; minus 11; minus 6; under column 11, minus 5; minus 4; the last column is minus 2.

Now, the figures indicated on there to those Northern Illinois points are the difference in distance and in the present differential to the Northern Illinois points, not including Beloit. It will be noted that both the present and the pro- [fol. 1744] posed differentials are contrary to the standard adjustment that prevails to the balance of Northern Illinois, Wisconsin, Southeastern Minnesota and Northeastern Iowa.

(Exhibit No. 53, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. For comparative purposes and to indicate the level of rates, will you introduce exhibits showing the percentage various rates involved in this proceeding are of the various scales of rates prescribed by the Interstate Commerce Commission, and do you have an exhibit reproducing these scales?

A. Yes, and it has been marked Exhibit No. 54. This is a statement showing the scales prescribed by the Interstate Commerce Commission in ICC Docket No. 23922, reported in 185 ICC 225 and 190 ICC 743, the scale prescribed by the Commission in ICC Docket No. 26558, the Midland Electric Case, and related cases, reported in 232 ICC 5, and the Holmes and Hallowell Scale, reported in 69 ICC 11. The three scales reproduced in this exhibit are the basic scale as increased under Ex Parte No. 115, reopened, of 3 cents, 5 cents with a maximum of 10 cents, and 3 cents, 5 cents, 10 cents with a maximum of 15 cents.

Q. What were the territories involved in those cases?

A. The 23922 Scale was prescribed for application from the Indiana Groups to destinations in the eastern-central [fol. 1745] portion of the State of Illinois. The 26558 scale was prescribed from the Illinois Groups to destinations in the state of Iowa. The Holmes and Hallowell scale was prescribed for application from the Head-of-the-Lakes to destinations in Minnesota, North Dakota and South Dakota.

(Exhibit No. 54, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared an exhibit showing the level of the Southern Illinois Group rates as compared with a composite of the Indiana groups to all of the representative destinations?

A. Yes, and it has been marked Exhibit No. 55. This is a statement showing the average distance via the short tariff routes and the average rate from the Southern Illinois Group and a composite of the Indiana Groups to the representative destinations, and to a composite of the representative destinations, including Beloit. To Rockford, the distance via the short tariff routes from the Southern Illinois Groups, is 368.8 miles and from a composite of all the Indiana Groups the short tariff route distance is 317.2 miles, or 51.6 miles greater distance from Southern Illinois than from the Indiana Groups; however, the present rate from Southern Ilinois to Rockford is 84 per cent of the 23922 scale and the present rate from the Indiana Groups [fol. 1746] Southern Illinois is 90 per cent and the proposed rate from the Indiana Groups 91 per cent. Under the Holmes and Hallowell scale the present rate from Southern Illinois is 62 per cent and from the Indiana Groups 64 per cent, while the proposed rate is 67 per cent from Southern Illinois and 69 per cent from the Indiana Groups. Under the 26558 scale the present Southern Illinois rate to Rockford is 68 per cent and from the Indiana Groups 69 per cent while the proposed rate from Southern Illinois is 73 per cent and from the Indiana Groups 75 per cent.

To a composite of all of the representative destinations, including Beloit, Wisconsin, the average distance from the Indiana groups is 62.5 miles less than the average short tariff route distance from the Southern Illinois Group. Under the 23922 scale the present rates from the Southern Illinois Group and from a composite of the Indiana groups is 85 per cent of that scale, while the proposed rate from Southern Illinois is 87 per cent and from a composite of the Indiana Groups 89 per cent. Under the Holmes and Hallowell scale to a composite of all representative destinations the present rate from Southern Illinois is 62 per cent of that scale while from the Indiana Groups the present rate is 65 per cent. The proposed rates from Southern Illinois are 63 per cent of that scale while the proposed rates from the Indiana Groups is 67 per cent. The same situation is true under the 26558 scale. The present rate from South-

ern Illinois being 69 per cent and from the Indiana Groups [fol. 1747] 70 per cent, while the proposed rates are 71 per cent of the scale for Southern Illinois and 73 per cent from the Indiana groups.

(Exhibit No. 55, Witness Scott, received in evidence.)

Exam. Trezise: Would you say there that the H. & H. scale is the scale prescribed in that 69 ICC 11 plus 15 cents?

The Witness: Yes, sir, it is.

Exam. Trezise: Thank you.

By Mr. Wilkinson:

Q. Now, Mr. Scott, can you give us or read into your Exhibit No. 55 these various distances, rates and percentages as between Indiana, on the one hand, and Southern Illinois, on the other, to the destinations in Northern Illinois exclusive of Beloit?

A. Yes, sir, I can. Under the 23922 scale, column 2, mileage from Southern Illinois group, and then across the board it is as follows: 371.2; 210; 215; 249; 84; 86; 310; 197; 205; 233; 85; and 88. Under the H. & H. scale: 371.2; 210; 215; 344; 61; 62; column 8, 310.0; column 9, 197; column 10, 205; column 11, 302; under column 12 is 65; and 68. Under the last scale, 26558: 371.2; 210; 215; 307; 68; 70; 310.0; 197; 205; 285; 69; and 72.

By Mr. Wilkinson:

Q. Southern Illinois being the base group in Illinois and Brazil-Clinton being the base group in Indiana, have you prepared an exhibit showing the level of the present and [fol. 1748] proposed rates from those groups?

A. Yes, and it has been marked Exhibit No. 56. This is a statement showing the present and proposed rates from the Southern Illinois Group, the base group in Illinois, as compared with the Brazil-Clinton Group, the base group in Indiana, to each representative destination and to a composite of the representative destinations, and the percentages such rates are of the 23922 scale, the H&H scale and the 26558 scale.

To Rockford, as an example, the Southern Illinois present rate is 84 per cent of the 23922 scale as compared with the Brazil-Clinton Group rate which is 83 per cent from the Milwaukee mines and 91 per cent from all other mines. The

rate proposed from Southern Illinois to Rockford is 90 per cent of that scale while the rate proposed from Brazil-Clinton is 90 per cent from Milwaukee mines and 98 per cent from all other mines. The present and proposed rates from the Milwaukee mines in the Brazil-Clinton Group are on the standard differential of 30 cents under Southern Illinois and the percentage of the 23922 scale is the same. The mines other than the Chicago, Milwaukee, St. Paul & Pacific in the Brazil-Clinton Group are not on their standard differential of 30 cents under Southern Illinois and consequently are a considerably greater percentage of the scale than are the rates from Southern Illinois.

Under the H&H scale the same situation exists to Rockford. Under the 26558 scale the present and proposed rates [fol. 1749] from the Brazil-Clinton Group are on a considerably higher level than are the rates from the Southern Illinois Group and this is true even from mines in the Brazil-Clinton Group on the Chicago, Milwaukee, St. Paul & Pacific Railroad which are on their standard differential of 30 cents under Southern Illinois.

To a composite of the representative destinations, including Beloit, Wisconsin, the proposed rates from Southern Illinois are 87 per cent of the 23922 scale and the proposed rates from the Brazil-Clinton Group is 92 per cent. Under the H&H scale to a composite of the representative destinations, the proposed rates are 63 per cent from Southern Illinois and 73 per cent from Brazil-Clinton. Under the 26558 scale the proposed rates from Southern Illinois are 71 per cent and Brazil-Clinton 80 percent.

(Exhibit No. 56, Witness Scott, received in evidence.)

Exam. Trezise: Mr. Scott, when you keep emphasizing Southern Illinois, the base group, does that mean because you call it that kind of a name they have got to pay a little bit more to ship their coal than if you didn't call it the base group?

The Witness: No, sir.

Exam. Trezise: You wouldn't mean that by emphasizing the base group?

The Witness: No, sir. The only reason I emphasized the [fol. 1750] base group as Southern Illinois is because it has been recognized for many years as the base group to destinations in this territory; and in Indiana, Brazil-Clinton has been recognized as the base group for many years. There-

fore, I am comparing the base groups to show the level of the rates.

Exam. Trezise: You wouldn't say just because you call it that kind of a name that relatively it ought to pay more money for like distance than the Boonville, Princeton-Ayrshire coal shippers?

The Witness: Well, the Boonville, Princeton-Ayrshire distance—if you take Boonville into consideration alone, that is something else. You must remember Boonville and Princeton-Ayrshire rates are not related to Illinois only. They are also related to the two groups, Linton-Sullivan, north of them, and they must have differentials which will permit them to ship their coal into this territory in competition with those groups.

Exam. Trezise: Then you are saying it would give them a little lower rate because you call them a base group over there?

The Witness: I would say when you compare the Southern Illinois and the Brazil-Clinton groups, you are comparing two base groups. Therefore those levels are comparable. But when you compare the Princeton-Ayrshire with two north groups in Indiana, they are related by differentials to them, to permit them to ship the coal, for the same reason [fol. 1751] you did for the most part make coal rates between Illinois, for all Illinois destinations, coal rates based on mileage.

Exam. Trezise: Than you do or you do not state by your statement that your emphasis of Southern Illinois being the base group means that they ought to pay a little more for shipping their coal than if you didn't call it the base group?

The Witness: I said the base group has no effect on it as far as them paying any more.

Exam. Trezise: I am asking that because that question has come up so often, and by virtue of that, I should say more or less gymnastics of figures and names—you just discussed an exhibit a while ago, your Exhibit 53, and you go from Southern Illinois to Lanark, with a difference in distance Indiana group under or over Southern Illinois, you have there say 50 miles greater distance, I assume, from Boonville, and over here you have a rate that is 10 cents less for a greater mileage of 50 miles; and does that

come about by virtue of calling the Southern Illinois group a base group?

The Witness: No, sir. That comes about by virtue of the fact that the Boonville group must compete with the other groups in the state in selling its coal and is entitled to a differential that will give them an opportunity to ship their coal.

I want to point this out in that connection, the rates from the Illinois group are not made with relation to mileages. [fol. 1752] They are made with relation to differentials. When I use Southern Illinois as the base group, I would say that this would justify it, that the carriers, for example, in complying with the rates in the Midland Electric Case, had Fulton County as the base group, as prescribed by the Commission; yet when it came time to make rates from Indiana, they did with the Indiana rates whatever was done with the rates from Southern Illinois, increased so much or decreased so much. The same was true when they got these increases under Ex Parte 115. Whatever increases or decreases were made from Southern Illinois were made from Indiana. That is true of the 10 cent reduction and all the others. Therefore, I would say the carriers over a period of many years, by using Southern Illinois to decide the rates from all other groups, have used Southern Illinois as the base group. They themselves have established the fact it is a base group.

By Mr. Wilkinson:

Q. And the Commission itself has acquiesced in that?

A. That is right.

Exam. Trezise: We will adjourn until two o'clock.

(At 12:45 p. m., recess taken until 2:00 p. m.)

[fol. 1753] Afternoon Session

The hearing was resumed pursuant to recess.

2:00 P. M.

Exam Trezise: All right, gentlemen. Proceed.

HAROLD V. SCOTT resumed:

Direct examination (Continued).

By Mr. Wilkinson:

Q. Have you prepared a statement showing the average present and proposed rates from a composite of the groups in Indiana as compared with a composite of groups in Illinois?

A. Yes, and it has been marked Exhibit No. 57. This is a statement showing the distance via the short tariff routes from a composite of the Indiana Groups as compared with a composite of the Illinois Groups to each representative destination and to a composite of the representative destinations, showing the average present and proposed rates and the per cent such rates are of the 23922 scale, the H&H scale, and the 26558 scale.

To each individual representative point, it will be noted that the average present rate from a composite of the Illinois Groups is, in each and every instance, a lower percentage of the three scales than are the present rates from a composite of the Indiana groups. Likewise, the average proposed rates from a composite of the Illinois groups to each destination is a lower percentage of each of the three [fol. 1754] scales than is the proposed rate from a composite of the Indiana groups. To most of the representative destinations the average proposed rate from a composite of the Illinois groups is a lower percentage of the various scales than are the average present rates from a composite of the Indiana groups.

To Rockford, for example, the average proposed rate from the Illinois groups is 82 per cent of the 23922 scale, while the average present rate from a composite of the Indiana groups is 85 per cent of that scale. Under the H&H scale, the average proposed rate from a composite of the Illinois groups to Rockford is 64 per cent of that scale, while the average present rate to Rockford from a com-

posite of the Indiana groups is 64 per cent. Under the 26558 scale, the average proposed rate from a composite of the Illinois groups to Rockford is 67 per cent of that scale, while the average present rate from a composite of the Indiana groups is 69 per cent of that scale.

To a composite of all the representative destinations, the exhibit shows that the average present rate from the Illinois groups is 79 per cent of the 23922 scale while the average present rate from Indiana groups is 85 per cent. The average proposed rate from a composite of the Illinois groups is 80 per cent and from the Indiana groups 89 per cent. Particular attention is directed to the proposed rate from the Illinois groups, which is 80 per cent of the 23922 scale, while the average present rate from the Indiana groups [fol. 1755] is 85 per cent. Under the H&H scale, the average present rate to a composite of all representative destinations from the Illinois groups is 60 per cent and the average proposed rate is 61 per cent. From the Indiana groups the average present rate is 65 per cent and the average proposed rate is 67 per cent. The average proposed rate from the Illinois groups is on a lower level than the average present rate from the Indiana groups.

Measuring the rates by the 26558 scale, from the Illinois groups the average present rate is 65 per cent and the average proposed rate 66 per cent, while from the Indiana groups the average present rate is 70 per cent, and the average proposed rate 73 per cent. Again it will be noted that the average proposed rate from the Illinois group under this scale is 66 per cent, while the average present rate from the Indiana groups is 70 per cent.

(Exhibit No. 57, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Now, Mr. Scott, those percentage figures that you have given for the composite include Beloit, Wisconsin?

A. Yes, sir.

Q. Can you give us the figures for the totals and averages under these three scales excluding Beloit and applying only to the Illinois destinations involved?

A. Yes, sir, I can.

[fol. 1756] Q. Will you do so, please.

A. Under the 23922 scale, under column 2, the figures to the representative Northern Illinois destinations as a whole,

without Beloit, are as follows: 289.1; 175; 180; 225; 78; and 80; 310.0; 197; 205; 233; 85 and 88. Under the H & H scale, starting under column 2, the figures are: 289.1; 175; 180; 289; 61; 62; 310.0; 197; 205; 302; 65 and 68. Under the 26558 scale, the figures are: 289.1; 175; 180; 274; 64; 66; 310.0; 197; 205; 285; 69; 72.

Mr. McElroy: Right at that point, Mr. Scott, these last exhibits you have introduced or talked about, they speak about the composite of Illinois groups. Have you explained some place in your previous testimony what the composite of the Illinois groups consists of, the individual groups? What individual groups?

The Witness: All groups in the state of Illinois?

Mr. McElroy: Did you use different groups in Illinois in your presentation?

The Witness: Yes, each and every group in the state.

Mr. McElroy: Well, do your groups differ any from the groups used by the Illinois coal operating witnesses?

The Witness: No, sir.

Exam. Trezise: They are the same groups?

The Witness: Yes, sir.

Mr. McElroy: They are the same groups?

[fol. 1757] The Witness: Yes, sir.

Mr. McElroy: And your percentages are different because the Illinois distances were different?

The Witness: I would say they are different because of the method in figuring the—well, the distances would be one. The different average rates would be another, than the Illinois witnesses used.

Mr. McElroy: What I have in mind is this, you are together on your theory, as I understand it, this is a good way to measure the relative levels between the two sets of rates, the Illinois intrastate rates, on the one hand, and the interstate rates on the other?

The Witness: The Illinois intrastate rates from the Illinois groups and the Indiana intrastate rates from Indiana groups as a whole.

Mr. Stadell: Interstate, you mean, from Indiana, instead of intrastate? You said intrastate.

The Witness: Interstate, yes.

By Mr. Wilkinson:

Q. Mr. Scott, in your Exhibit No. 56 which you discussed just prior to the noon recess, you have shown in the exhibit the totals and averages including Beloit and you have read those into the record. Now, can you give us for Exhibit No. 56 the totals and averages for the Illinois destinations, exclusive of Beloit?

A. Yes, sir, I have those figures.

[fol. 1758] Q. Will you please read them in so that we can put them into the exhibits.

Mr. McElroy: Is that Exhibit No. 56, you are talking about?

Mr. Wilkinson: Yes.

The Witness: To the representative northern Illinois destinations as a whole, that is not including Beloit, Wisconsin, the figures under the 23922 scale are as follows: 371.2; 210; 215; 249; 84; 86; 257.2; 189; 197; 217; 87 and 91. Page 2, under the H & H scale, the figures are: 371.2; 210; 215; 344; 61; 62; 257; 189; 197; 271; 69; and 72. Under the 26558 scale the figures are: 317.2; 210; 215; 307; 68; 70; 257.2; 189; 197; 250; 75; and 78.

By Mr. Wilkinson:

Q. Have you prepared an exhibit showing the earnings accruing under the present and proposed rates from the Illinois and Indiana groups?

A. Yes, and it has been marked Exhibit No. 58; this is a statement of the distances via the short tariff routes from a composite of the Illinois groups and a composite of the Indiana groups to each representative destination and to all representative destinations, showing the average present and proposed rates and the earnings thereunder.

At the bottom of the page is shown the earnings to a composite of the representative destinations.

Q. Including Beloit?

[fol. 1759] A. Including Beloit.

Mr. Morgan: Are you speaking now of the earnings of the railroad?

The Witness: Sir?

Mr. Morgan: When you mention earnings, is that the earnings of the railroad?

The Witness: Yes, sir.

Mr. Morgan: To what extent did you prepare this earning?

The Witness: Well, I took the distance in which the traffic is hauled, the average short tariff route distance, and I took the present rate, and by that I arrive at the resultant earnings the railroad gets under the present rates, and the same for the proposed rates.

Exam. Trezise: These are the revenues they get for hauling the coal?

The Witness: Yes, sir.

Exam. Trezise: The revenues they get.

Mr. Morgan: It is the same thing I have in mind. It is money. Who supplied you with the figures on behalf of the railroads?

The Witness: They were in their own tariffs.

Mr. Wilkinson: I think that there is a misunderstanding on the part of counsel as to what these figures purport to show. They are not showing the net earnings. They are [fol. 1760] showing what would accrue if traffic moved under these rates and via these routes.

Mr. Morgan: From what source did you get the amount of traffic which was moved in each instance, that is, on each railroad?

The Witness: There is nothing on here to indicate the amount of traffic. It is based on one ton.

Mr. McElroy: Those are not the earnings of the railroads. It is merely what the railroad would get per ton per mile.

The Witness: That is right.

Mr. Morgan: If they happened to haul any coal.

Mr. McElroy: It is the rate divided by the distance, isn't it?

The Witness: That is right.

Mr. Wilkinson: That is it. Will you proceed, Mr. Scott.

The Witness: Under columns 5 and 6 the earnings from the Illinois groups are 6.07 mills under the present rates and 6.21 mills under the proposed rates. Under columns 12 and 13 the earnings from the Indiana groups are 6.39 mills under the present rates and 6.64 mills under the proposed rates. Under columns 7 and 8 the car mile earnings from the Illinois groups are 30.35 cents under the present rates and 31.05 cents under the proposed rates, while from the Indiana groups the car mile earnings are 31.95 cents under the present rates and 33.20 cents under the proposed rates.

[fol. 1761] Exam. Trezise: And their car mile earnings are based on the the minimum weights?

Mr. Wilkinson: Based on a 50 ton car.

The Witness: Yes, sir.

Exam. Trezise: 50 tons a car?

The Witness: Yes, sir, as indicated on the exhibit.

Exam. Trezise: Oh, yes, that is right, it is on the exhibit. Thank you.

The Witness: It will be noted that the proposed rates from the Illinois groups reflect earnings lower than do the present rates from the Indiana groups.

[fol. 1762] By Mr. Wilkinson:

Q. Now, do you have the figures of the earnings per ton mile and per car mile to the Illinois destinations exclusive of Beloit?

A. Yes, I have.

Q. Will you give us those, please,

A. To the representative Illinois destinations shown on this exhibit, that is, to the Illinois points, and not including Beloit, Wisconsin, the figures are as follows: 289.1; 175; 180; 6.05; 6.22; 30.25; 31.10; 310.0; 197; 205; 6.36; 6.61; 31.80 and 33.05.

(Exhibit No. 58, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Do you have an exhibit showing the earnings from the Southern Illinois and a composite of the Indiana groups to each representative destination and to a composite of the representative destinations?

A. Yes, and it has been marked Exhibit No. 59. This is a statement showing the distances via the short tariff routes from Southern Illinois and a composite of the Indiana groups to each representative destination and to a composite of the representative destinations including Beloit, also the present and proposed rates and the resultant revenue per ton mile and per car mile.

To each of the representative destinations shown, except Dixon, the per ton mile earnings under the present rates from the Indiana groups exceed those from the [fol. 1763] Southern Illinois group and likewise the earnings from the Indiana groups under the proposed rates

exceed those from the Southern Illinois group. The same thing is true under the car mile earnings.

On the last line of this exhibit is shown the earnings to the representative destinations as a whole, consisting of Northern Illinois points and Beloit, Wisconsin. Again it will be noted that under both the present and proposed rates, the earnings from the Indiana groups greatly exceed those from the Southern Illinois group. The proposed rates from Southern Illinois reflect earnings of 5.8 mills per ton mile, while from a composite of the Indiana groups the present rates reflect earnings of 6.39 mills per ton mile. The same situation exists under the per car mile earnings.

(Exhibit No. 59, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Again, can you give us the figures for the Illinois destinations, exclusive of Beloit, for the composite of the total?

A. Yes. These figures are as follows, to the representative destinations in Northern Illinois shown in this exhibit, and therefore, not including Beloit, the figures are as follows: 371.2; 210; 215; 5.66; 5.79; 28.30; 28.95; 310.0; 197; 205; 6.36; 6.61; 31.80; 33.05.

Mr. Zoll: Mr. Scott, on your Exhibit 58, what was the figure that you read in column 6?

[fol. 1764] The Witness: 6.22.

Mr. Zoll: Can that be right? It is a minor point. I thought I would just ask about it though.

The Witness: I think so.

Mr. Bather: Your total average is 6.21. It would be less, wouldn't it, excluding Beloit?

The Witness: You have got a shorter distance and your rate is one cent less. We will figure that and see.

Mr. Zoll: You don't need to do it now.

By Mr. Wilkinson:

Q. Do you have an exhibit which shows the comparison of the earnings from Southern Illinois and the Brazil-Clinton groups to these destinations we have been discussing?

A. Yes, and it has been marked Exhibit No. 60. This is a statement showing the average distance from Southern Illinois, the base group in Illinois, and Brazil-Clinton, the

base group in Indiana, to each representative destination and to a composite of the representative destinations showing the revenue per ton-mile and per car-mile under the present and proposed rates.

Q. And that includes Beloit in that?

A. Yes, sir.

Q. All right, proceed.

A. To each individual destination the ton-mile earnings and the per car-mile earnings from the Brazil-Clinton group [fol. 1765] are greatly in excess of the earnings from the Southern Illinois group. For example, to Rockford the earnings from Southern Illinois under the present rate reflects earnings of 5.69 mills, while from the Brazil-Clinton group the present rate from mines on the Chicago, Milwaukee, St. Paul & Pacific Railroad which is on the standard basis of differentials, reflects earnings of 7.09 mills and from other mines in that group which are not on their standard differentials under Southern Illinois, the present rate reflects earnings of 7.76 mills per ton-mile. Further, the earnings under the proposed rates from the Southern Illinois group are in all cases considerably lower than the earnings under the present rates from the Brazil-Clinton group.

At the bottom of the page is shown the earnings to a composite of the representative destinations, in Northern Illinois and Beloit, Wisconsin, as a whole. The present rates from Southern Illinois reflect earnings of 5.66 mills per ton-mile and from Brazil-Clinton 7.36 mills per ton-mile, while the proposed rates reflect earnings of 5.80 mills per ton-mile from Southern Illinois and 7.71 mills per ton mile from Brazil-Clinton. The earnings from Southern Illinois under the proposed rates are considerably less than the earnings under the present rates from the Brazil-Clinton group. The same situations exists under the per car-mile earnings.

(Exhibit No. 60, Witness Scott, received in evidence.)

. . . . . .

[fol. 1766] Mr. McElroy: At least, Mr. Scott, you prob-
[fol. 1767] ably would get the same result if you compared Southern Illinois with the Springfield group in Illinois, would you not?

The Witness: That I don't know.

Mr. McElroy: Since the Springfield group and the Brazil-Clinton group are on practically the same level of rates.

Mr. Wilkinson: I might say for the record, Mr. McElroy, that we in Indiana recognize that ordinarily earnings per ton-mile and per car-mile diminish as distance increases.

By Mr. Wilkinson:

Q. Mr. Scoft, can you give us the figures for these earnings and distances for the composite of the destinations in Northern Illinois, exclusive of Beloit?

A. Yes. To the Northern Illinois destinations, exclusive of Beloit, as shown on Exhibit 60, the figures are as follows: 371.2; 210; 215; 5.66; 5.79; 28.30; 28.85; 257.2; 189; 197; 7.35; 7.66; 36.75; 38.30.

Q. What carriers serve both mines in Indiana and in the Southern Illinois groups?

A. The C. & E. I. and New York Central Railroads serve mines in the Brazil-Clinton, Linton-Sullivan, and the Princeton-Ayrshire groups in Indiana and mines in the Southern Illinois group.

Q. Have you prepared a statement making a comparison of the distances and rates from the mines served by these railroads in those groups?

A. Yes, and it has been marked Exhibit No. 61. This is a statement showing the short tariff route distances from the [fols. 1768-1769] four Indiana groups and the Southern Illinois group on the C. & E. I. and New York Central Railroads, the present and proposed rates from those groups and the per cent such rates are of the various scales. This is shown to each representative destination and, on the last page of the exhibit, to a composite of all destinations, which are the representative destinations in Northern Illinois and does not include Beloit. To Byron, the first point shown on page 1, from mines on the C. & E. I. Railroad, the present rates from the Indiana groups are: 91 per cent of the 23922 scale from the Brazil-Clinton group, 90 per cent from the Linton-Sullivan group, and 84 per cent from the Princeton-Ayrshire group, while from the Southern Illinois group they are 82 per cent. The proposed rates from the Indiana groups are 96 per cent of the 23922 scale from the Brazil-Clinton group, 94 per cent from the Linton-Sullivan group and 88 per cent from the Princeton-Ayrshire group, while

from the Southern Illinois group the proposed rates are 86 per cent of the 23922 scale.

Under the H&H scale, the present rates from the Indiana groups range from 63 to 72 per cent, while the Southern Illinois present rate is 61 per cent of that scale. The proposed rates under the H&H scale from the Indiana groups range from 66 to 75 per cent——

. . . . . .

[fol. 1770] The Witness: The proposed rates under the H&H scale from the Indiana groups range from 66 to 75 per cent, while the proposed rates from Southern Illinois are 64 per cent. Under the 26558 scale, the present rates from the Indiana groups range from 68 to 76 per cent, while from Southern Illinois the present rate is 66 per cent. The proposed rates from the Indiana groups range from 72 to 80 per cent of the 26558 scale, while from Southern Illinois the proposed rate is 69 per cent of that scale.

Exam. Trezise: Let us take a bit of a recess here.

(A recess was taken.)

Exam. Trezise: All right, gentlemen, let us proceed.

By Mr. Wilkinson:

Q. Will you proceed with your statement, Mr. Scott.

A. The same situation exists from mines on the New York Central Railroad as from mines on the C. & E. I. Railroad. On page 4 of this exhibit it is shown that to a composite of all destinations the present rates from the Indiana groups are much higher than are the level of the rates from Southern Illinois.

[fol. 1771] Q. Then that last panel is a composite of all the preceding specific points?

A. That is true, Northern Illinois points.

Q. Showing the same type of information to the composite of all of them?

A. Yes, sir.

(Exhibit No. 61, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared a statement showing a comparison of the earnings from the mines on the C. & E. I. and New

York Central Railroads in the Indiana groups and the Southern Illinois group?

A. Yes, and it has been marked Exhibit No. 62. This is a statement showing the comparison of the per ton-mile and per car-mile earnings under the present and proposed rates from the Brazil-Clinton, Linton-Sullivan and Princeton-Ayrshire groups and the Southern Illinois group on the C. & E. I. and New York Central Railroads, to each representative destination, and on the last page to a composite of all representative destinations.

On the last page of this exhibit is a composite of all the representative destinations in Northern Illinois and it is shown that the present rates from the mines on the C. & E. I. Railroad reflect ton-mile earnings in Indiana higher than those from Southern Illinois.

[fol. 1772] Q. What does it show with respect to the New York Central Railroad?

A. The same situation is true with respect to the car-mile earnings under the present and proposed rates from mines on the New York Central Railroad.

(Exhibit No. 62, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared a statement showing the longest and shortest haul via the short tariff routes from the Southern Illinois, Springfield, and the four Indiana groups to each representative destination?

A. Yes, and it has been marked Exhibit No. 63. This is a statement showing the longest haul and the shortest haul via the short tariff routes from the Springfield, and Southern Illinois groups, and from the four Indiana groups to each representative destination.

Exam. Trezise: Does that mean that the shortest haul is depicting the nearest point in the group to the destination and the farthest point in the group from the destination?

The Witness: Yes, sir, that would be it. It is the point that has the point of origin but the shortest haul, one point of origin in the group with the shortest haul and one point of origin in the group with the longest haul, via the short tariff routes.

Mr. McElroy: What is it intended to prove, since all coal [fol. 1773] rates are generally on a group basis?

The Witness: Well, it shows, Mr. McElroy, for example, that from the Springfield group to Beloit, Wisconsin, the shortest tariff route distance is 191.9 miles and the longest is 328.6 miles. The difference in distance between the longest and the shortest of the short tariff routes from the Springfield group is 136.7 miles. Now, going down to the first Indiana group, which is Brazil-Clinton, it shows that the shortest haul via the short tariff route is 241.1 miles, while the longest is 301.1 miles, a difference in distance between the shortest and the longest short tariff route of only 60.2 miles.

Mr. McElroy: You didn't answer my question yet, what it is intended to prove.

The Witness: It proves that the difference in distance between the short tariff route and the long tariff route in the Springfield group is much greater than is that same difference in distance from the Brazil-Clinton group.

Mr. Wilkinson: I might add to that, Mr. McElroy, that one of the purposes of this exhibit is to illustrate the small compact size of the Indiana groups as compared to the Illinois groups, and that this talk of difference in distance of a few miles as between Princeton and Southern Illinois is more than swallowed up in the differences in the distance between Southern Illinois or the Springfield group, for example.

[fol. 1774] Exam. Trezise: Well, that is not any contention there that the Boonville group should be smaller or that the Springfield group should be smaller?

Mr. Wilkinson: We are not contending anything. We are merely showing the fact and we will argue it on brief.

Exam. Trezise: What significance the extremes may have in determining what the rate ought to be?

Mr. Wilkinson: That is right.

(Exhibit No. 63, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. The testimony and exhibits which you have offered up to this time have dealt generally with the rates to Northern Illinois destinations and Beloit, Wisconsin. Have you prepared exhibits dealing specifically with the proposed increases from the Indiana mines to Beloit and the resultant disruption of the differentials between the Illinois and

Indiana groups and between the Indiana groups themselves to Beloit?

A. Yes, I have.

Q. Will you introduce such exhibits?

A. My first exhibit, which has been marked Exhibit No. 64, is a statement showing the present and proposed rates on bituminous coal from mines in the Illinois, Indiana and Western Kentucky groups to Rockford, Illinois, and Beloit, Wisconsin; also the amount of increase in cents per ton and [fol. 1775] the present and proposed differentials the other groups are under or over the Southern Illinois group.

We have shown the rates to Rockford in order to show how the carriers arrived at the proposed rates to Beloit. From each and every group the proposed rate to Beloit is arrived at by adding 15 cents to the proposed Rockford rate. This is the method the carriers elected to apply in complying with the order of the Commission in ICC Docket No. 25419 and Related Cases, decided March 3, 1942, 251 ICC 181. In that proceeding the Commission found that the rates on bituminous coals from mines in Illinois, Indiana and Western Kentucky to Beloit were unduly prejudicial to Beloit and unduly preferential to Rockford to the extent that they exceeded the rates from the same origins to Rockford by more than 15 cents per ton.

The present rates from the Illinois groups to Beloit exceed those to Rockford by 30 cents per ton.

From Indiana the present rates from mines on the Chicago, Milwaukee, St. Paul & Pacific Railroad in the Brazil-Clinton district and Linton-Sullivan district to Beloit exceed those to Rockford by 30 cents per ton and from the other Indiana mines the rates to Beloit exceed those to Rockford by 13 cents from the Brazil-Clinton district and 18 cents from mines in the Linton-Sullivan, Princeton-Ayrshire and Boonville districts.

Under the method the carriers propose to use in complying with the order of the Commission in the Beloit case, [fol. 1776] there will be no change in the rates from the Illinois groups, except Atkinson will be reduced 14 cents per ton, or from the Western Kentucky group, as shown under column 10 of Exhibit No. 64, and no increase in the rates from mines in Indiana on the Chicago, Milwaukee, St. Paul & Pacific Railroad.

Mr. Cardy: Mr. Scott, before you get over that subject, you said in each and every case it only increased the rates 15 cents a ton. Isn't it a fact in Northern Illinois, at Rockford, they increased it 20 cents a ton as shown in your exhibit?

The Witness: That is correct. However, from other mines in Indiana it results in an increase of 17 cents from the Brazil-Clinton group, 12 cents from the Linton-Sullivan groups, and Princeton-Ayrshire group. As shown under column 10, there is no increase in rates from mines on the Southern Railway in the Princeton-Ayrshire and Boonville groups or from mines on the A. W. & W. Railway via the Southern Railway in the Princeton-Ayrshire group. While the carriers have stated that these increases from the Indiana mines are in compliance with the order of the Commission in Docket No. 25419, there is nothing in that order which authorizes any increase in the rates from the Indiana mines, nor is there anything which authorizes or approves the disruption of existing origin relationships which are of long standing.

By Mr. Wilkinson:

Q. How are the differentials between the Illinois groups [fol. 1777] affected by the proposed adjustment and between the Illinois mines on the one hand, and the Indiana mines on the other?

A. As shown under columns 11 and 12 of Exhibit No. 64, with the exception of Atkinson, the differential relationship between Southern Illinois and the other Illinois groups, is the same under the proposed rates as is in effect at the present time. However, from mines in Indiana other than on the C. M. St. P. & P. Railroad, the Southern Railway and the A. W. & W. Railway, the proposed rates would result in a complete disruption of the differentials between the Illinois groups on the one hand, and the Indiana groups on the other.

Is it proposed to disrupt the differential relationship between the Southern Illinois and Western Kentucky groups?

A. No, the present differential Western Kentucky over Southern Illinois is 35 cents per ton and the carriers are proposing to continue that differential.

Q. How did the carriers comply with the order of the Commission in the original Beloit Case, reported in 195 ICC 365?

A. In their decision in that case the Commission found that the rates assailed from mines in Illinois, Indiana, and Western Kentucky were unduly prejudicial to Beloit and unduly preferential to Rockford to the extent that they exceeded the contemporaneous rates from the same origins to Rockford by more than 25 cents per ton. In complying [fol. 1778] with the decision in that case, the carriers first determined the rate from the Southern Illinois group, the base group, and then determined the rates from the other groups by deducting from, or adding to, the Southern Illinois rate, the standard differential. The only exception to this formula were the rates from the Fulton County-Peoria groups.

(Exhibit No. 64, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Do you have an exhibit showing this situation?

A. Yes, and it has been marked Exhibit No. 65. This is a statement showing the rates from origin groups in Illinois, Indiana and Western Kentucky to Beloit. Under column 2 is shown the rates to Beloit in effect on October 26, 1933, prior to the first order of the Commission in Docket No. 25419, and under column 3 is shown the rates published in compliance with the order in that case effective October 27, 1933. Under column 4 is shown the rates in effect to Rockford on those dates.

The rate from Southern Illinois was reduced to 25 cents over the rates to Rockford and the rates from the other groups, except the Fulton-Peoria group, established on the basis of their standard differential under Southern Illinois.

The Brazil-Clinton rate was continued 30 cents under Southern Illinois, the Linton-Sullivan rate 20 cents under Southern Illinois, the Princeton-Ayrshire rate 13 cents [fol. 1779] under Southern Illinois, and the Boonville rate 10 cents under Southern Illinois.

Q. Is Beloit the only point affected by the adjustment which the carriers are now proposing to that point?

A. No, it also affects many intermediate points at which the same situation as proposed to Beloit still exists.

(Exhibit No. 65, Witness Scott, received in evidence.)

The Witness: My next exhibit, which has been marked Exhibit No. 66, is a statement showing the present and proposed rates from the Southern Illinois and Springfield groups and the Indiana groups to Beloit and affected Illinois points, and the amount of increase in cents per ton that is proposed from each group. Referring to the stations on the Chicago, Milwaukee, St. Paul & Pacific Railroad, Rockton to Dakota, Illinois, it will be noted under column 4 that it is proposed to increase these rates from Southern Illinois 8 cents per ton and from Springfield, as shown under column 7, 8 cents per ton. However, from the Brazil-Clinton and Linton-Sullivan groups, except the mines on the C. M. St. P. & P. Railroad, it is proposed to increase these rates 15 cents per ton. From the Princeton-Ayrshire and Boonville groups it is proposed to increase these rates 10 cents or 15 cents per ton. In other words, there is no uniformity in the amount of increase or resulting rates which are to be made to these affected points.

[fol. 1780] (Exhibit No. 66, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you a statement which shows the differentials, Indiana versus Southern Illinois to these affected intermediate points?

A. Yes, and it has been marked Exhibit No. 67. This is a statement showing the present and proposed rates from Southern Illinois and the Indiana groups to Beloit and affected points; also the present and proposed differential Indiana under Southern Illinois. Under column 12, which I particularly would like to call to your attention, it is shown that the present differential Brazil-Clinton under Southern Illinois is uniformly 30 cents per ton while under column 13 the proposed differential to stations on the C. M. St. P. & P. Railroad is 30 cents per ton from C. M. St. P. & P. mines but from other mines 13 cents to Beloit and 23 cents to other destinations.

The same is true from the other Indiana groups.

Mr. McElroy: The same is true from the other Indiana groups, is that not correct?

The Witness: I think I better elaborate on that just a little bit.

Mr. McElroy: In other words, your differential Brazil-Clinton under Southern Illinois is 30 cents.

The Witness: Yes. I am talking about the differential Indiana, on the one hand, and Southern Illinois, on the other.

[fol. 1781] Exam. Trezise: Go ahead.

By Mr. Wilkinson:

Q. Well, the exhibit shows on its face the differentials presently existing to these destinations and the differentials that would exist under the proposed rates from each of the Indiana groups, does it not?

A. That is right.

Q. Under Southern Illinois?

A. That is right.

Mr. McElroy: It shows the extent to which it is proposed to disturb it?

The Witness: That is right.

By Mr. Wilkinson:

Q. And it shows that from all of the other groups there are varying differentials to these destinations?

A. That is true.

(Exhibit No. 67, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Do the rates which the carriers are proposing to Beloit disrupt the differential relationship between the Indiana groups themselves?

A. Yes, by referring to my Exhibit No. 64, it will be seen under column 10 that the proposed rates to Beloit result in no increases from mines on the C. M. St. P. & P. Railroad in the Brazil-Clinton group, but that from all other mines in that group an increase of 17 cents is proposed. From mines in the Linton-Sullivan group on the C. M. St. P. & P. Railroad, no increase is proposed but an increase of 12 cents is proposed from mines in that group on other railroads. From the Princeton-Ayrshire group no increase is [fol. 1782] proposed from mines on the Southern Railway or the A. W. & W. Railway via the Southern, while from mines in that group on other railroads an increase of 12

cents per ton is proposed. From the Boonville district no increase is proposed in the present rates.

This results in a complete disruption of the differential relationship between the Indiana mines themselves and my next exhibit, which has been marked No. 68 portrays this situation.

This exhibit shows Brazil-Clinton to be the base group and from the Linton-Sullivan group the present differential is uniformly 10 cents per ton over the Brazil-Clinton group. The Princeton-Ayrshire group is uniformly 17 cents over the Brazil-Clinton group and the Boonville group is 20 cents over the Brazil-Clinton group. These differentials have been in effect for many years.

However, under the proposed rates the differentials are greatly disrupted, even to the extent of breaking up the rates applicable from mines within the same group. At the present time all mines in the Brazil-Clinton group take the same rate of $2.10 but under the carriers' proposal the rates from mines on the C. M. St. P. & P. Railroad would remain $2.10 but the rates from mines on other railroads in that group would be increased to $2.27. From the Linton-Sullivan group the present differential of 10 cents over Brazil-Clinton is proposed to be continued from mines on the C. M. St. P. & P. Railroad, but from mines on other rail- [fol. 1783] roads it is proposed to increase the differential over the lowest Brazil-Clinton rate from 10 cents to 22 cents. As between carriers other than the C. M. St. P. & P. Railroad serving the Brazil-Clinton and Linton-Sullivan groups the differential is narrowed to 5 cents. From the Princeton-Ayrshire group it is proposed to continue in effect the present differential of 17 cents over the lowest rate from the Brazil-Clinton group from mines on the Southern Railway and from mines on the A. W. & W. via the Southern, while from mines on other railroads in the Princeton-Ayrshire group it is proposed to increase the differential from 17 cents to 29 cents. From the Boonville group it is proposed to continue in effect the present differential of 20 cents Boonville over the lowest rate from the Brazil-Clinton group. Another instance of the peculiarity of the carriers' proposed adjustment is that the proposed rate from mines in the Brazil-Clinton group located on railroads other than the C. M. St. P. & P. Railroad is $2.27, while from mines on the C. M. St. P. & P. Railroad in the Linton-Sullivan group, ordinarily a higher rated group than the Brazil-

Clinton group, the rate will be $2.20. The same situation exists from the Princeton-Ayrshire and Boonville groups where under the proposed adjustment, the Boonville rate will be $2.30 per ton but from the Princeton-Ayrshire group, ordinarily a lower rated group, the rate from some of the mines will be $2.39 per ton.

[fol. 1784] It can be seen that the proposed rates to Beloit disrupt the differentials between the Indiana groups and also disrupt the parity in rates which has existed from all mines in each individual group.

(Exhibit No. 68, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. You stated that the Illinois Central published a rate from the Linton-Sullivan group to Rockford on a parity with the rates from the Illinois mines to Rockford?

A. Yes, sir.

Q. Does the Illinois Central propose to increase the rates from its mines from Linton-Sullivan to Beloit to 15 cents over its rate from the same mines to Rockford or does it propose a rate to Beloit on a parity with the other lines serving Linton-Sullivan, except the Milwaukee?

A. It proposes rates to Beloit on a parity with other railroads.

Q. So that as far as the Illinois Central is concerned, it is not in strict compliance under any interpretation with the order of the Interstate Commerce Commission regarding the rates via its line direct to Beloit?

A. That is correct.

Q. Have you prepared a statement showing the difference in distance, Southern Illinois versus the Indiana groups and the present and proposed rate differentials to Beloit?

[fol. 1785] A. Yes, and it has been marked Exhibit No. 69. This is a statement showing the distance via the short tariff routes to Beloit from the Indiana groups and from the Southern Illinois group, the difference in distance the Indiana groups are under Southern Illinois, and the present and proposed rates; also the present and proposed rate differentials, Indiana groups under Southern Illinois:

The Brazil-Clinton group is the base group in Indiana and, as shown on this exhibit, is 136.3 miles under the distance from Southern Illinois. For this difference in dis-

tance the present differential Brazil-Clinton under Southern Illinois is 30 cents but under the proposed rates the differential will be 30 cents only from mines on the C. M. St. P. & P. Railroad, while from mines on other railroads in that group it is proposed to reduce the differential from 30 cents to 13 cents. From the Linton-Sullivan district for a difference in distance under Southern Illinois of 102.4 miles, the present differential is 20 cents and under the proposed adjustment this differential will be reduced to 8 cents except from mines on the C. M. St. P. & P. Railroad.

From the Princeton-Ayrshire group for a difference in distance of 28.4 miles it is proposed to reduce the present differential under Southern Illinois from 13 cents to 1 cent except from origins on the Southern Railway and A. W. & W. Railway. No change is proposed in the differential of 10 [fol. 1786] cents, Boonville under Southern Illinois.

Q. Now, when you say from mines on the A. W. & W. Railway, you mean from mines on that road via the Southern?

A. Yes, sir.

Q. If they move off the A. W. & W. via the New York Central, a different situation would exist?

A. That is true.

(Exhibit No. 69, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared a statement showing the difference in distance Springfield under Southern Illinois and the present and proposed rate differentials to Beloit?

A. Yes, and it has been marked Exhibit No. 70. This is a statement showing the distance via the short tariff route to Beloit from the Southern Illinois and Springfield groups, the difference in distance Springfield under Southern Illinois, the present and proposed rates, and the present and proposed rate differential.

The difference in distance, Springfield under Southern Illinois, is 121.8 miles for which the present differential, Springfield under Southern Illinois, is 30 cents, and the proposed differential is likewise 30 cents. Referring to my Exhibit No. 69 it will be seen that the difference in distance, Brazil-Clinton under Southern Illinois, is 136.3 miles for which the present differential is 30 cents and for which the [fol. 1787] proposed differential is 13 cents except from

C. M. St. P. & P. mines. The difference in distance Brazil-Clinton under Southern Illinois, is 14.5 miles greater than the difference in distance Springfield under Southern Illinois, yet it is proposed to continue the present Springfield differential of 30 cents under Southern Illinois but reduce the present Brazil-Clinton differential from 30 cents to 13 cents.

(Exhibit No. 70, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. You have previously stated that both the C. & E. I. and the New York Central Railroads serve mines in the Brazil-Clinton group and the Southern Illinois group. Have you prepared a statement making a comparison of the distances and rates from the mines served by those railroads in these two groups to Beloit?

A. Yes, and it has been marked Exhibit No. 71. This is a statement showing the distances and the present and proposed rates from the Brazil-Clinton group, which is the base group in Indiana, the Linton-Sullivan and Princeton-Ayrshire groups, and from the Southern Illinois group, which is the base group in Illinois, to Beloit; there is also shown the present and proposed rates, the per cent such rates are of the various scales and the earnings under such rates.

From the C. & E. I. mines it will be noted that the level of the rates from the groups in Indiana are on a nigher basis [fol. 1788] than are those from Southern Illinois. The same situation exists in comparing the rates from Brazil-Clinton and Southern Illinois group on the Illinois Central.

(Exhibit No. 71, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. How do the rates and differentials as now proposed by the carriers to Beloit compare with the rates and differentials as proposed and approved in the I&S 4368 adjustment?

A. The rates and differentials from the Indiana groups as proposed in this proceeding are not the same as approved by the Commission in their decision in I&S Docket No. 4368 reported in 232 ICC 151, nor are they the same as in effect at that time.

If you will refer to my exhibit marked No. 52, this is a statement showing the rates prior to the I&S 4368 ad-

justment, as proposed by the carriers and as approved by the Commission under I&S 4368, the present rates and proposed rates from Southern Illinois and the Indiana groups and the differentials under such rates, Indiana groups versus Southern Illinois. Page 1 of this exhibit shows the rates from Southern Illinois, Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Boonville Groups to Beloit, Wisconsin, in effect prior to the I&S 4368 adjustment, as proposed by the carriers and as approved by the Commission under I&S 4368, in effect at the present time and as [fol. 1789] now proposed by the carriers.

From Southern Illinois the rate to Beloit as proposed and as approved under I&S 4368, as now in effect and as now proposed is $2.40. From Brazil-Clinton, the rate under I&S 4368 as proposed, as approved, and as now in effect is $2.10 but the carriers are now proposing a continuation of the $2.10 rate only from mines on the C. M. St. P. & P. and from other mines an increase in the rate to $2.27.

From the Linton-Sullivan group the rate as proposed under I&S 4368 and as approved by the Commission in that proceeding, and as now in effect, is $2.20. However, the carriers are now proposing a continuation only from mines on the C. M. St. P. & P. Railroad, while from other mines they are proposing to increase the rate to $2.32.

From the Princeton-Ayrshire group the carriers proposed under I&S 4368 to increase the rate to $2.40 but the Commission approved an increase in the same amount as in other groups, resulting in a rate of $2.27 which is the rate in effect at the present time; however, the carriers are now proposing to continue this $2.27 rate only from mines on the Southern Railroad and mines on the A. W. & W. Railroad via the Southern while from all other mines they are proposing a rate of $2.39. From the Boonville district under the I&S 4368 adjustment the carriers proposed a rate of $2.43 which was a greater increase in cents per ton than from the Illinois mines or from other Indiana [fol. 1790] mines but the Commission approved a rate of $2.30 which is the rate in effect today and which is also the rate as now proposed by the carriers.

As indicated by this exhibit, the Commission in their decision in I&S 4368 approved the action of the carriers in continuing the standard differentials under Southern Illinois from the Brazil-Clinton and Linton-Sullivan groups, but did not approve the proposed disruption of the standard

differential between Southern Illinois on the one hand and the Princeton-Ayrshire and Boonville groups on the other. They did however, approve rates from those groups based on their standard differential of 13 cents under Southern Illinois from the Princeton-Ayrshire group and 10 cents under Southern Illinois from the Boonville group, also based the standard differential between those two Indiana groups and the Brazil-Clinton and Linton-Sullivan groups.

The differentials approved by the Interstate Commerce Commission in their decision in I&S Docket 4368 are the standard differentials applying not only to Beloit but to the balance of the state of Wisconsin except to points along the Lake Michigan shore, to Southeastern Minnesota, and to Northeastern Iowa, as shown on the differential map which has been marked Exhibit No. 48.

Q. Are the carriers proposing to disrupt the differential relationship between the Illinois groups to Beloit?

[fol. 1791] A. No, they are proposing no change in the present rates from the Illinois groups to Beloit and consequently no change in the differential in those groups except from Atkinson. From Atkinson they are proposing a reduction of 14 cents which puts that origin on the Fulton-Peoria basis.

Mr. Cardy: Mr. Scott, that statement doesn't apply to the short haul rates? In other words, that is a general statement, taking in Fulton-Peoria and the group south, but not so far as the short haul rates are concerned, is that generally true?

The Witness: Just one moment, Mr. Cardy, and I will answer that.

Mr. Cardy: Oh, this is to Beloit, I see.

By Mr. Wilkinson:

Q. It is your understanding that your statement applies to Northern Illinois as well as to the other Illinois groups?

A. Yes, sir.

Q. Can you say how the level of the present and proposed rates from the Illinois groups compares with the present and proposed rates from the Indiana groups to Beloit?

A. Yes, by referring to my Exhibit No. 36. This exhibit shows a comparison of the level of the present and proposed

rates from Southern Illinois, the base group in Illinois, and from Brazil-Clinton, the base group in Indiana to Beloit.

Under column 6 and 7 on page 1 of this exhibit, the pres-
[fol. 1792] ent and proposed rates from Southern Illinois to Beloit are 92 per cent of the 23922 scale, while from the Brazil-Clinton group the present rate to Beloit, as shown under Column 12, is 95 per cent of that scale and under Column 13 the proposed rate is 95 per cent from the C. M. St. P. & P. Railroad mines and 102 *per cent from other* mines in that group.

It shows the same comparisons on page 2 under the H&H scale and the 26558 scale or the Midland scale.

Q. The per cents under the various scales are somewhat different, but the Indiana rates are a higher percentage of that scale than the Illinois rates?

A. That is right.

Q. How do the level of the present and proposed rates from the Illinois groups compare with those from the Indiana groups?

A. Refer to my exhibit marked No. 57. This exhibit shows a comparison of the level of the rates from a composite of the Illinois groups as compared with a composite of the Indiana groups to Beloit.

Under the 23922 scale the present and proposed rates from the Illinois groups to Beloit, as shown under columns 6 and 7, is 84 per cent of that scale. From a composite of the Indiana groups, as shown under columns 12 and 13, the present rate is 90 per cent and the proposed rate 92 per cent of that scale. Under the Holmes and Hallowell scale and the 26558 or Midland scale, the percentages indicate that the rates from Indiana are on a higher level than are the
[fol. 1793] rates from a composite of the Illinois groups.

Q. How do the earnings under the present and proposed rates from the Illinois groups compare with those from the Indiana groups to Beloit?

A. Referring to my exhibit marked No. 58, this exhibit shows that to Beloit from a composite of the Illinois groups the average present rate, as shown under column 7, reflects per ton-mile earnings of 6.65 mills and the average proposed rate 6.61 mills. The earnings from the Indiana groups to Beloit are higher, as shown under Columns 12 and 13.

Q. How do the earnings from Southern Illinois compare with the earnings from Brazil-Clinton?

A. Referring to my exhibit which has been marked No. 60, this exhibit shows that to Beloit, the present and proposed rates from Southern Illinois reflect ton-mile earnings of 6.09 mills and the present rate from Brazil-Clinton reflects earnings of 7.78 mills. The proposed rate from Brazil-Clinton reflects ton-mile earnings of 7.78 mills from the C. M. St. P. & P. mines and 8.41 mills from other mines. Again it will be noted that the earnings from the Southern Illinois group under the present rate is considerably lower than the earnings under the present and proposed rates from Brazil-Clinton.

The same situation is reflected in the car-mile earnings.

Q. The testimony and exhibits that you have presented [fol. 1794] are intended to prove, are they not, that the rates and differentials as now in effect and as now proposed to the Northern Illinois destinations and as now proposed to Beloit are not proper. What is the contention of the Indiana operators as to what rates would be proper?

A. It is our contention that the rates from Indiana to destinations in Northern Illinois should be on the basis of their standard differential under Southern Illinois which was in effect prior to the 1930-1932 disruption. To Beloit, it is our contention that the rates should continue in effect the differential relationship with Southern Illinois, which relationship has been in effect for many years.

Q. Do you have an exhibit showing what these rates would be?

A. Yes, and it has been marked Exhibit No. 72. This is a statement showing the rates that would obtain from the Indiana groups to the representative destinations in Northern Illinois and Beloit, Wisconsin, and to a composite of such representative destinations based on the standard differentials between the Indiana groups and the Illinois groups.

These rates are arrived at in the following manner: The rates proposed from Southern Illinois to these representative destinations have been taken as the base rate from the Illinois group. From the base group in Indiana, the Brazil-Clinton groups, the rates shown on this exhibit have been made on their standard differential of 30 cents under [fol. 1795] Southern Illinois. From the Linton-Sullivan group, the rates are based on their standard differentials of 10 cents over Brazil-Clinton. From the Princeton-Ayrshire group the rates are based on their standard differen-

tials of 17 cents over Brazil-Clinton. From the Boonville group the rates are based on their standard differentials of 20 cents over Brazil-Clinton.

Under column 6 is shown a composite rate from the Indiana groups to each representative destination and to a composite of all representative destinations.

Q. The averages which you have shown at the bottom of that page are the averages to the Illinois destinations and Beloit?

A. Yes, sir.

Q. Can you give us the averages just to the Illinois destinations, exclusive of Beloit?

A. Yes. The averages to the Illinois destinations only, that is not including Beloit, Wisconsin,——

Mr. Stadell: Is this page 1 of Exhibit 72?

The Witness: Yes. They are as follows: under column 2, 185; continuing across, 195, 202, 205, 197.

By Mr. Wilkinson:

Q. All right, will you proceed, Mr. Scott.

A. On page 2 of this exhibit is shown a comparison of the average proposed rates from the Illinois groups with the average rate, based on standard differentials, from the Indiana groups, and the per cent such rates are of the various scales. It will be noted that to each representative [fol. 1796] destination the Indiana rate is on a higher level than the Illinois rate except to Dixon, Illinois. To the representative destinations as a whole the average proposed rate from the Illinois groups is $1.81 and the average rate from the Indiana groups based on their standard differentials is $1.99.

Under the 23922 scale the Illinois rate is 80 per cent of that scale and the Indiana rate is 85 per cent of that scale. Under the H&H scale the Illinois rate is 61 per cent and the Indiana rate 65 per cent of that scale. Under the 26558 scale the Illinois rate is 66 per cent and the Indiana rate 70 per cent of that scale.

Q. Now, I understand that that is a composite of Indiana rates, based on Indiana rates being made Brazil-Clinton 30 cents under Southern Illinois and the other Indiana groups taking what you have termed their standard differentials over Brazil-Clinton?

A. Yes, sir.

Q. And the composite of the Illinois rates are the presently proposed rates involved here?

A. Yes, sir. The figures on page 2 of this exhibit are to a composite of the Northern Illinois and Beloit destinations, and I would like to give the figures to a composite of the Northern Illinois destinations only.

Q. All right, will you do so.

A. Under the first panel, 23922 scale, the figures across are as follows: 289.1; 180; 80; 310.0; 197; 85. The second [fol. 1797] panel, 289.1; 180; 62; 310.0; 197; 65. Under the third panel and the last panel, 289.1; 180; 66; 310.0; 197; and 69.

The Indiana operators believe that its evidence shows that should the Commission find the rates from the Illinois groups to this destination territory to be justified, it should prescribe rates from the Indiana groups based on their standard differentials under Southern Illinois as shown on page 1 of Exhibit No. 72.

However, no matter what rates the Commission finds to be proper to these destinations, it is our position that the rates from the Indiana groups should be on their standard differential with relation to the rates from Illinois, and also on their standard differential relationship with each other.

(Exhibit No. 72, Witness Scott, received in evidence.)

The Witness: May we be off the record? We would like to identify the two exhibits which are now to be introduced.

Exam. Trezise: All right.

The Witness: I have them right here.

(Discussion outside the record.)

The Witness: The exhibit consisting of four pages, marked RS-195 will be Exhibit No. 73, and the next exhibit identified as S-193R will be Exhibit No. 74.

(Exhibits Nos. 73 and 74, Witness Scott, marked for identification.)

[fol. 1798] By Mr. Wilkinson:

Q. Mr. Scott, the present and proposed rates from the Illinois and Indiana groups to the representative destinations, and the short tariff route distances, are shown in

carriers' Witness Robertson's Exhibits Nos. 3 and 4. Have you made a study of those exhibits?

A. Yes, I have.

Q. Have you prepared an exhibit based on the carriers' mileages and rates to show the relative levels of the rates from Illinois and Indiana to the carriers' representative destinations?

A. Yes, and it has been marked Exhibit No. 73. This is a statement based on the carriers' mileages and rates on Exhibits Nos. 3 and 4, showing a composite of the Illinois groups compared with a composite of the Indiana groups to the carriers' representative destinations as a whole; the exhibit shows the average present and proposed rates and the per cent such rates are of the H&H scale, the 23922 scale, and the 26558 scale. Pages 2, 3, and 4 of this exhibit contain the supporting data for the figures shown on page 1.

Q. While this exhibit speaks for itself, is there any particular comment you care to make about it?

A. I would like to direct attention to columns 9 and 10, page 1, of this exhibit. At the bottom of the page, under these columns, it is shown that to a composite of the carriers' representative Northern Illinois destinations the average present rate from all the Illinois groups is 1.67 [fol. 1799] when including all rates to the Northern Illinois group and $1.73 from all Illinois groups when using the Wilmington rate as representative of Northern Illinois, and from the Indiana groups the average present rate is $1.98.

The reason I have used one figure from all Illinois groups based on all origins in the Northern Illinois group and another figure from all Illinois groups based on using Wilmington as representative of Northern Illinois, is because carriers' Witness Nelson in his Exhibit No. 11 stated that inasmuch as the majority of the tonnage in the Northern Illinois group originated at Wilmington, that the carriers considered Wilmington as representative of that group. I have, however, shown figures based on using all origins in the Illinois groups, as that would seem to be the proper method of comparing the level of the rates; that is, when comparing the level of all rates and mileages from the Illinois groups with all rates and mileages from the Indiana groups.

The average proposed rate from the Illinois groups is $1.74 and $1.81 while from the Indiana groups the average

proposed rate is $2.07. Particular attention is directed to the fact that the average proposed rate from the Illinois groups is considerably lower than is the average present rate from the Indiana groups.

Under column 12 it is shown that the present rates from the Illinois groups are 58 per cent of the H&H scale when [fol. 1800] using all origins and rates in the Illinois groups and 60 per cent of the scale from all Illinois groups when using Wilmington only as a representative of the Northern Illinois group, whole from the Indiana groups the present rates are 65 per cent of that scale.

Under column 13 it will be noted that the proposed rates from the Illinois groups are 61 per cent and 63 per cent of the H&H scale while from the Indiana groups the proposed rates are 68 per cent of that scale. Here again is the significant fact that the proposed rates from the Illinois groups are on a much lower level than are the present rates from the Indiana groups.

The same situation is true under columns 15 and 16 with respect to the level of the rates under the 23922 scale.

The same situation is also true under columns 18 and 19 showing the level of the present and proposed rates under the scale prescribed in Docket 26558, the Midland Electric Case.

(Exhibit No. 73, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Have you prepared a statement showing what the average rate would be from the Indiana groups to the representative destinations used by the carriers based on their standard differentials with the proposed rates from the Illinois groups and a comparison of those Indiana rates with those proposed from Illinois?

A. Yes, and it has been marked Exhibit No. 74. This is [fol. 1801] a statement based on the carriers' mileages and rates to the carriers' representative destinations, showing the composite distance via the short tariff routes from the Indiana groups and the Illinois groups, the average proposed rates from the Illinois groups and the average Indiana rate based on their standard differential relationship with the Illinois rates; also the per cent such rates are of the 23922, the H&H and the 26558 scales. The rates and mileages from the Illinois groups and the mileages from

the Indiana groups are based on the carriers' mileages and rates as shown in the Witness Robertson's Exhibits Nos. 3 and 4.

Q. What does this exhibit show with respect to the rates from the Indiana groups if they were based on their standard differentials with the Illinois groups?

A. If the rates from the Indiana groups were based on their standard differential relationship with the Illinois groups, the resultant average rate from the Indiana groups would be $1.98 as compared with an average proposed rate from the Illinois groups of $1.74.

The average rate from Indiana would be 85 per cent of the 23922 scale as compared with 79 per cent of that scale from the Illinois groups. Under the H&H scale the average rate from Indiana would be 65 per cent as compared with 61 per cent from the Illinois groups and under the 26558 scale the average rate from Indiana would be 69 per cent [fol. 1802] as compared with 66 per cent from the Illinois groups. In other words, in each instance the level of the rates from Indiana based on their standard differential relationship with the Illinois groups would be higher than the level of the proposed rates from the Illinois groups.

(Exhibit No. 74, Witness Scott, received in evidence.)

By Mr. Wilkinson:

Q. Mr. Scott, did you hear Mr. Rozene's evidence given here yesterday and the day before, Saturday?

A. Yes, sir.

Q. Do you recall the fact that he used in making comparisons of certain of his exhibits mileages via what he termed the shortest tariff routes?

A. Yes, sir.

Q. Now, from your exhibits you have used mileages via the so-called short tariff routes, have you not?

A. Yes, sir.

Q. Will you tell us why you used mileages and average distances via short tariff routes rather than via the so-called shortest tariff route method?

A. Because in my opinion the mileages figured via the short tariff routes are those which should be used to measure the minimum service which the carriers offer in connection with their rates.

Exam. Trezise: Do you mean that it is more representa-
[fol. 1803] tive of the service that the carriers perform under those rates?

The Witness: Yes, sir.

By Mr. Wilkinson:

Q. The use of the average of the short tariff routes uses the minimum service that the carriers as a whole hold themselves out to perform for the mines in Illinois and Indiana, do they not?

A. Yes, sir.

Q. Whereas the use of the shortest tariff route distances does not take into consideration services offered by carriers from certain of the joint mines?

A. That is correct.

Q. Now, you heard reference made to the possible use of the so-called short circuit routes or class rate method of figuring distances. Do you think that that method of figuring distances should be used in the determination of the issues in a proceeding such as this?

A. No, I do not, because it in no way can be used to measure the minimum service which the carriers offer to perform for the rates which they charge.

Q. The carriers, in other words, do not hold themselves out and do not perform service of transportation over routes arrived at by use of that formula?

A. That is correct.

Q. Do you recall Witness Rozene's exhibit No. 30?

[fol. 1804] A. Yes, sir.

Q. Do you believe that the use of routes constructed in the manner of his blue and red lines on the pages of that exhibit afford a proper basis for the decision of this case, so far as computing distances are concerned?

A. I definitely don't believe that they do.

Q. For the same reasons that it does not represent the service which the carriers perform or hold themselves out to perform?

A. That is exactly true.

Q. Do you advocate using the distances from the nearest point in any of the groups to the destinations or any destination as representative of the entire group?

A. No, for the same reason, it does not represent the service which the carriers hold themselves out to perform.

Q. And in like manner, you would not recommend using the farthest distant point in any group, for the reason that it represents more than the average service?

A. That is correct.

Mr. Wilkinson: That is all, Mr. Scott.

Exam. Trezise: I think we have imposed on Mr. Scott about long enough today. So I think we will adjourn until ten o'clock tomorrow morning.

(At 4:30 p. m., September 28, 1943, adjourned until 10:00 a. m., September 29, 1943.)

[fol. 1805]

Morrison Hotel,
Chicago, Illinois,
September 29, 1943.

The hearing resumed pursuant to adjournment, at 10:00 o'clock a. m.

R. N. Trezise, Examiner.

F. B. McElroy, Illinois Commerce Commission.

Appearances:

As heretofore noted.

PROCEEDINGS

Exam. Trezise: All right, gentlemen, proceed.

Mr. Bather: Mr. Examiner, before we proceed, may we go off the record?

Exam. Trezise: Off the record.

(Discussion outside the record.)

Exam. Trezise: Mr. Wilkinson.

Mr. Wilkinson: The witness is available for cross-examination.

Mr. Biaett: I have a few questions of Mr. Scott, if nobody else wants to go ahead. It makes no difference to me.

Exam. Trezise: Go ahead, Mr. Biaett.

HAROLD V. SCOTT, resumed.

Cross-examination.

By Mr. Biaett:

Q. Mr. Scott, will you refer to page 10 of your Exhibit No. 41, please.

A. Yes, sir.

[fol. 1806] Q. In that exhibit, from Brazil-Clinton to Rockford, you show a rate of $1.80 via the Milwaukee Railroad, a distance of 237.1 miles. Now, is that average distance the average from all of the mines in the group or the average distance from the mines served by the Milwaukee?

A. The 237.1 is the average distance from the tariff origin points on the Milwaukee Railroad.

Q. Now, the Milwaukee has a rate which is 17 cents lower than the rates which apply via the other lines?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Now, will you please turn back to page 5 of your exhibit, which is Freeport. There from Brazil-Clinton to Freeport you show a rate of $1.97 in column 6.

A. Yes. I realize that is a typographical error.

Q. There is a lower rate via the Milwaukee from Brazil-Clinton to Freeport than the rate which you show?

A. Yes. Is it proper for me at this time to ask that that exhibit be corrected to show a rate of $1.80? It will not influence any other exhibit.

Mr. Bather: Excuse me.

By Mr. Bather:

Q. It is not via that route, Mr. Scott.

A. Oh, that is correct; that is true. That is right. This exhibit shows a short tariff route distance from each group [fol. 1807] and the rate applying in connection with that short tariff route distance. This particular exhibit, Exhibit No. 3, the purpose is to show, as stated on the title page, the distances via the short tariff routes from these groups to these representative destinations.

By Exam. Trezise:

Q. That is Exhibit 41?

A. Exhibit 41, sir; page 5. And the 265.4 average distance is the short tariff route distance from the mines on the C. M. St. P. & P. to Freeport, Illinois, for which there is a rate of $1.97 as shown on this exhibit.

There is, however, a rate of $1.80 via the C. M. St. P. & P. Railroad from its Brazil-Clinton Group to Freeport, and that rate applies via its line direct. The distance via the Milwaukee line direct is greater than the distance shown in this exhibit.

By Mr. Biaett:

Q. Now, referring to Linton-Sullivan on page 5. In column 6 you show a rate of $2.02 via the Milwaukee from Linton-Sullivan to Freeport. Is there not in effect a lower rate from mines on the Milwaukee in the Linton-Sullivan District to Freeport, Illinois, than the $2.02 rate which you show?

A. That is right. There is a rate of $1.90 per ton in effect from mines on the C. M. St. P. & P. Railroad in the Linton-Sullivan Group to Freeport, Illinois, via the lines of the C. M. St. P. & P. Railroad direct. The distance via that tariff route of the C. M. St. P. & P. direct is greater [fol. 1808] than the distance shown on this sheet.

Q. Now, referring to page 4, Dixon. From the Illinois Central origins in Linton-Sullivan Group to Dixon, Illinois, is there not a lower rate applicable than the $1.90 which you show in column 6?

A. Not to my knowledge. I believe $1.90 is the lowest.

Exam. Trezise: Is that what you wanted to ask?

Mr. Biaett: Well, I thought Mr. Scott probably knew that there was a lower rate.

The Witness: I would say there is not a lower rate.

By Mr. Biaett:

Q. Well, would you check that? I can give you the tariff reference. In Illinois Central Tariff 3100-H, ICC E-1802.

A. You wish me to check that?

Q. That shows a rate of $1.89 from Linton-Sullivan origins on the Illinois Central to Dixon, Illinois.

A. That is correct. I recall it now that you mention it, Mr. Biaett, yes, sir.

Q. And the distance via that route is longer, is it not, than the distance which you show?

A. Yes, sir.

Q. Now, referring to page 2, at Byron, are there not lower rates via the New York Central from Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire to Byron than the rates which you show in column 6?

A. Yes. My recollection is that there is a $1.90 rate, I be-
[fol. 1809] lieve.

Q. From which group?

A. Oh, from the Brazil-Clinton Group.

Q. And would the distance be longer or shorter than the distance which you show?

A. The distance, Mr. Biaett, in these exhibits—well, answering your question directly; I am sorry. If there is such a lower rate, the distance via the route over which that rate applies would be longer than the distance shown in this exhibit.

I want to reiterate here that the purpose of this exhibit is to show the average short tariff route distance from the group, regardless of the rate; and this exhibit also carries the rates that are applicable in connection with that short tariff route distance.

Q. Irrespective of whether or not the rate over which that—the route and the rate is the lowest from the group?

A. Yes, sir.

Q. Now, from Princeton to Byron there is also a lower rate via the New York Central than the rate which you show, isn't there?

A. I think I will check that for sure just now, Mr. Biaett. I am sorry, Mr. Biaett; I can't recollect. I will be glad to check into it and get that information.

Q. Would you also check the Boonville and Linton-Sullivan, Brazil-Clinton via the New York Central?

A. The three New York Central groups, Brazil-Clinton, [fol. 1810] Linton-Sullivan and Princeton-Ayrshire?

Q. Yes.

Exam. Trezise: As to Byron.

Mr. Biaett: And the route. To Byron, yes.

The Witness: I will be glad to do that. I can't recall offhand.

By Mr. Biaett:

Q. Now, Mr. Scott, I believe you were present at the pre-trial conference which was held in these proceedings, were you not?

A. Yes, sir.

Q. At that pre-trial conference, the carriers indicated the representative suspended points to which they would compute the rates and mileages in these proceedings, did they not?

A. Yes, sir.

Q. And you have used seven points which the carriers did not use?

A. There are some, yes.

Q. For what purpose did you select the points which you used?

A. I selected them for about the same reason, I would say, that the carriers selected theirs. It is representative of the district, and I will say this also to you, Mr. Biaett, at the time of that pre-hearing conference, as I recall it, it was held in October of 1942 or thereabouts, and it was about thirty or sixty days before the hearing in which this case was assigned; and I had already worked out my repre-[fol. 1811] sentative points, mileages and rates and so forth and had done considerable work the past three or four months on that, and because the carriers had selected different representative points, I did not see why, in view of the fact that the hearing was to be held shortly, I should change those. And even later on, when the hearing date was postponed, I couldn't see why two months of work should be done over.

There was no agreement, incidentally, made at the hearing about everybody using those representative points. There was——

By Exam. Trezise:

Q. You mean limiting it to those?

A. The carriers——

Mr. Biaett: I agree to that, Mr. Scott.

The Witness: Well, I just didn't want it from the record to show there might have been such an agreement.

Mr. Biaett: That wasn't my point at all.

By Mr. Biaett:

Q. Now, in selecting these points, did you take into consideration the population of the towns and the consumption of coal at those points?

A. No, sir. I took them as representative of the area, so as not to bunch them in one particular spot, or anything of that sort. I took them as representative of the destination area, to the best of my ability.

By Exam. Trezise:

Q. More or less the geographical, with the geography in mind, is that what you had in mind?

A. Yes, sir.

[fol. 1812] By Mr. Biaett:

Q. In selecting these points from a geographical standpoint, why did you select Wasco and St. Charles both? Your Exhibit 39 shows that they are located approximately one mile from each other.

A. Well, I did that—I can explain that, I think, very nicely; at least my idea.

I did that for this reason. We used St. Charles as an important consuming point, very representative point in the area. I think you will agree with me. And then I picked Wasco as a representative point for another reason. It was at Wasco that the carriers proposed to disrupt the differentials further. In other words, they were disrupted first in a previous adjustment, 1930 adjustment, and now in this proceedings the carriers propose to further disrupt that differential with Illinois; and it was for the purpose of showing the Commission what the carriers propose to do at certain of these points, Wasco being one of them that I used, that representative point.

Q. And the same would be true of Ladd, would it not?

A. No, I used Ladd for another reason. The only rates involved to Ladd, the only changes involved to Ladd, as I recall it, were certain mines in Indiana to Ladd. Ladd is practically the southern tip of this adjustment territory and, as such, is located very close to the Illinois groups, and in order to give what I would consider a fair picture, I used that point so there could be no possible criticism of [fol. 1813] my using the points in the northern part of the State.

Now, had I known no one else was going to do that, I wouldn't have included Ladd. It would have made by position much better.

Q. Have you any idea what the population of Wasco is?

A. It is probably about as big as Apple River.

Q. As a matter of fact, Apple River is about six times as large as Wasco.

A. Well, if one has one person and the other has six, that would be true.

Mr. Cardy: Have you any idea what the population of Apple River is?

Mr. Biaett: We will supply that for the record, since Mr. Scott doesn't know.

The Witness: No, Mr. Biaett frankly, I haven't checked the population of any of these destinations. Some of them, of course, I am familiar with in general, like Rockford and Freeport and some of those; but I had no intention of checking the population to pick out my representative points.

By Mr. Biaett:

Q. Then as I understand it, you selected these points to show the disruption in the differentials without regard to the population of the points or the consumption of coal at such points, did you?

A. No, your understanding is wrong.

Q. Isn't that what you just——

[fol. 1844] A. No, sir.

Q. Isn't that the explanation you made?

A. No, I made the explanation as to Wasco. You said why I selected these points. I selected these destinations as representative of the group. I took a map and I sat down and looked at it. I put a circle around this town; I did it personally. I put a circle around that town, and I tried to get a representative picture, the same, I imagine, as the carriers did. I believe the carriers did the same thing; they used to when I worked for them.

And then, to bring out the particular situation that I wanted to emphasize as to the disruption of the differentials, Wasco was representative of that and I added Wasco for that purpose.

By Exam. Trezise:

Q. And you, did not take the tonnage situation or the movement of coal or study of that to determine what points might have been representative from the standpoint of movement?

A. No, sir. I believe if Wasco gets one car of coal it should be involved in this judgment, the same as a town that got 100 cars of coal.

Q. But you didn't know whether Wasco ever got a car of coal?

A. No, I didn't.

By Mr. Biaett:

Q. I presume you selected Lanark for the same reason you selected Wasco, did you not?

A. No, sir. The situation, I believe, at Lanark is the [fol. 1815] same as at Wasco but that was representative. I just picked it off the map.

Q. Do you know the population of Lanark?

A. Well, I have been there. Let's see. I have driven through it, I should say. Oh, I don't know, probably 2500 people. I am just guessing. I haven't been there in ten years.

I would point out, Mr. Biaett, too, in connection with Lanark, that it is almost in the extreme western part of this destination territory involved in this proceeding.

Q. Now, will you please turn to your Exhibit No. 43.

A. Pardon me. What was that number, please?

Mr. Wilkinson: 43.

By Mr. Biaett:

Q. 43. On page 2, under the Illinois Central, Mr. Scott, from Linton-Sullivan, can you tell me whether or not there is an origin point in the Linton-Sullivan Group by the name of Sullivan?

A. Yes. It has been added since these exhibits were made up.

Q. It has recently been added to the tariff?

A. Yes.

Q. Do you know when it was added?

A. No, sir, not the exact date.

Q. Now, under the Pennsylvania mines, you show that there are no published mileages from Templeton No. 4?

A. Yes.

Q. Have you checked the Pennsylvania tariffs on that?

[fol. 1816] A. Distance tariffs?

Q. Yes.

A. Yes.

Q. Did you check Supplement No. 37 to Pennsylvania Tariff ICC 398?

A. I couldn't tell you about the supplement. I will say this, Mr. Biaett, that it is very possible since those exhibits were made up, Templeton Mine No. 4 has been added in the distance tariff. That is possible. However, we did not revise each and every one of our exhibits, because I didn't believe one origin point would materially, if at all, change the average mileages shown in these exhibits.

Q. Now, on page 6, with respect to Fulton County.

A. Page—oh, yes.

Q. Do you know whether or not there is an origin point on the M. & St. L. by the name of Maxwell, Illinois, which you have omitted?

A. I couldn't answer that offhand. no.

Q. Would you check that to determine whether or not there is an origin point which you have omitted?

A. Would I check it?

Q. Yes.

A. Yes, I will be glad to.

May I go off the record, Mr. Examiner?

Exam. Trezise: Surely.

(Discussion off the record.)

[fol. 1817] Exam. Trezise: Back on the record.

By Mr. Biaett:

Q. Now, on page 6 also, under the C. B. & Q., do you know whether or not there are origin points on the Burlington by the name of Rushville?

A. Yes, I believe there is.

Q. And also Augusta?

A. Yes.

Q. And those origin points are omitted from your exhibit?

A. That is correct.

Q. Now, on page 8, with respect to route No. 43, is that route correct, Mr. Scott?

A. That is not a route. That is just showing the list of joint mines, Mr. Biaett, and I believe—I will have to find it in here, wherever it is used.

That indicates that there is a joint—oh, there is an error there. That should read joint C. M. St. P. & P.-C. I. & L. instead of I. C.

By Mr. Stadell:

Q. What should that read?

A. 43, on page 8 of Exhibit No. 5, the explanation of circle reference 43 should read joint C. M. St. P. & P.-C. I. & L. Apparently it is a typographical error.

By Mr. Biaett:

Q. Now, will you turn back to Exhibit 42, please, Mr. Scott. On page 1 you show no distances from B. & O. origins in southern Illinois to Beloit, Wisconsin.

A. Yes, sir.

[fol. 1818] Q. Can you tell me why the distances from the B. & O. mines are omitted from the exhibit?

A. Yes. The rate shown on there, on this same exhibit under column 6 from southern Illinois to Beloit, is $2.40 from all of the origins—from all the origin carriers shown. Now, through an error, the B. & O. have a rate of about $2.80 or $2.90, I don't remember which, which was strictly an error, and we have left it out of here because we felt it would distort the picture, using the amounts for that rate in there.

In other words, Mr. Biaett, the B. & O., at the time the other carriers reduced those rates, it did not reduce its rate, undoubtedly through error.

Q. Now, the same is true of Centralia, is it not?

A. Yes.

Q. Now, on page 9 of this exhibit you show the distance from Alpha to Rochelle, Illinois, as 143.2 miles via the C. B. & Q. direct. Can you tell me what route of the Burlington you used in ascertaining that mileage?

A. No, I can't, no. I don't remember. On the C. B. & Q. Railroad direct, it was figured in their distance tariff; that is about all I can tell you.

Q. Do you know whether or not the C. B. & Q. can handle traffic from Alpha to Rochelle via any route other than Aurora without violating the fourth section?

A. No, I couldn't answer that. They may have Fourth [fol. 1819] Section authority to violate—Fourth Section departure authority.

Q. Now, on page 10 with respect to Victoria, can you tell me how many mines there are at Victoria?

A. One according to this record, and I believe that is all.

Q. You show a rate of $1.50. Do you know whether or not there is in effect a lower rate from Victoria than the rate which you show?

A. No, I do not know of any lower rate.

Q. You do not know, Mr. Scott, whether or not there is a rate of $1.45 applying via the Burlington direct?

A. No, I do not know that.

Q. Now, Mr. Scott, my impression from your exhibits is that on the whole they demonstrate that the rates from the Indiana groups, the present rates from the Indiana groups, the composite rates from the Indiana groups, are on a higher level than the composite rates from the Illinois groups, is that correct?

A. Yes, sir.

Q. And do they also show that the rates proposed by the carriers in these proceedings are on a higher level from the Indiana groups than from the Illinois groups?

A. Yes, sir.

Q. And they also purport to show, do they not, that the rates from the Indiana groups which you are proposing are on a higher level than the rates which the carriers are proposing from the Illinois groups?

[fol. 1820] A. I didn't quite follow that, Mr. Binett.

Q. They show, do they not, your exhibits, that the rates which you propose from the Indiana groups to Northern Illinois are on a higher level than the rates which the carriers are proposing to the same destination territory from the Illinois groups?

A. Yes, I believe that is true.

Q. Now, in computing the distances from the Illinois and Indiana groups to the representative destinations which you have shown, did you compute the distances from every origin point in Illinois and every origin point in Indiana?

A. Yes, sir.

Q. And the——

By Mr. Stadell:

Q. What was the answer, yes?

Mr. Biaett: Yes.

The Witness: Wait a minute until I check that, please. Yes, that would be true.

Would you ask the reporter to read that question, please?

Mr. Biaett: Yes, sir.

(Question read.)

The Witness: Yes.

By Mr. Biaett:

Q. And in getting your average distance from all of the origin points in Illinois, did you take into consideration the number of origin points in the different groups in securing your grand average?

A. Yes.

[fol. 1821] Q. And you did the same thing with respect to Indiana, did you not?

A. Yes, sir.

Q. So that where one group had one origin point and another group has forty origin points, that average distance is weighted by the number of origins in the respective groups, is it not?

A. It has to be done because the differences vary. You couldn't take an average of an average.

Q. Now, in securing your composite rates from Illinois and from Indiana, did you do the same thing?

A. You don't have the differences in rates by each origin that you do in distances. Your rates for the most part are on a group basis.

Q. And the rates, the composite rates from the Illinois groups and the composite rates from the Indiana groups which you show are just a simple average of the rates from the groups, are they not?

A. Right.

Q. The fact that there may be one origin point in one group and forty origin points in another group is not taken into consideration in securing your average rates?

A. No, I don't believe it proper.

Q. Now, Mr. Scott, is there also a group in Indiana by the name of the Evansville group?

A. Yes, sir.

[fol. 1822] Q. Does the Evansville group take a higher rate or a lower rate than the Boonville, Princeton, Linton and Brazil groups?

A. It takes a higher rate.

Q. Can you tell me why you omitted the Evansville group from your computation in securing the composite rates from the Indiana groups?

A. Yes, I believe I can. The first reason is that there is now in operation only one small mine down there on the E. & O. V. Railroad, and to my knowledge it ships coal to only a few points in the State of Indiana, most of it to the city of Evansville. The Coal Trade Association of Indiana, which I represent in this proceedings, has in all these cases represented the mines in the Linton-Sullivan, Brazil-Clinton and Princeton-Ayrshire and Boonville Groups. We have figured our mileages and rates from those groups. We haven't figured the Evansville group, in practically all of the proceedings in which I have represented that association, because it ships no coal up into this destination territory.

Q. Now, Mr. Scott, if you had taken the rate from Evansville in arriving at your composite rates, would that not have increased the composite rate from the Indiana groups?

A. I don't know but I believe it may have.

Q. Now, with respect to the Illinois groups which you took into consideration in arriving at the average rate or composite rate from the Illinois groups to the representa-
[fol. 1823] tive suspended destinations which you show, can you tell me how many mines there are at Alpha, in the Alpha group?

A. One, to my knowledge.

Q. Do you know if that mine in the Alpha group ships any coal to this destination territory?

A. No, I don't know that. I don't know whether it does or not, I should say.

Q. Do you know how many mines there are in the Atkinson group?

A. One.

Q. Do you know whether or not the mine in the Atkinson group ships any coal to this destination territory?

A. I have not made a check of that.

Q. I believe you previously stated that there was only one mine in the Victoria group?

A. Yes.

Q. Do you know whether the mine at Victoria ships any coal to this destination territory?

A. No, I do not know that definitely.

Q. Now, Mr. Scott, in taking Alpha, Atkinson, and Victoria, and including that in your computation, the composite rate from the Illinois groups, does not that lower the average rate from the Illinois groups?

A. In taking Alpha, Atkinson and——

Q. Victoria into consideration, and giving the rate from those groups the same weight as you did the rates from [fol. 1824] the Southern Illinois and Springfield and Fulton County groups?

A. Yes. I mean yes, go ahead, Mr. Biaett. That wasn't an answer to your question.

Q. I finished my question.

A. Yes, it probably would.

Q. Then to the extent that you have omitted the Evansville group in arriving at your composite rate from the Indiana groups and have included Alpha, Atkinson and Victoria in arriving at your composite rate from the Illinois groups, your exhibits represent an improper comparison, do they not?

A. Well, no. Using the same line of reasoning that you used in your questions, I would say that there is coal shipped from—this is as to my general knowledge I am talking about, Mr. Biaett—there is coal shipped from probably Alpha, Atkinson and Victoria, at least one or more of those points to, say, Rockford, whereas I know there is no coal shipped from Evansville.

Q. You stated previously you didn't know whether there was any coal shipped or not.

A. That is right, but you are asking me to make an assumption on something I don't know and I am not going to do that.

Q. Don't you think if you omit Evansville that you should have ascertained the fact of whether or not there were any shipments before you included these small mines in Illinois?

A. No, I don't think so.

[fol. 1825] Mr. Wilkinson: Ask if they are small mines.

The Witness: No, they are not small mines. They are rather large production.

By Mr. Biaett:

Q. Do you know what their production is?

A. It is in the record. Mr. Nelson put it in the record. I don't recall the exact figures now.

Q. Now, Mr. Scott, with respect to the Brazil-Clinton and Springfield rates, are Brazil-Clinton and Springfield on the same basis to Chicago?

A. I will tell you in just a minute, Mr. Biaett. May I have the carriers' exhibits, please?

Might I have the question again? I don't remember the points.

Q. Do Brazil-Clinton and Springfield take the same rates to Chicago, Illinois?

A. No, sir.

Q. Does Brazil-Clinton take a lower rate than Springfield to Chicago?

A. Yes, sir.

Q. How much lower?

A. Ten cents.

Q. Do you know whether or not the Brazil-Clinton is the nearer or the greater distant group to Chicago?

A. Brazil-Clinton is the nearer group to Chicago than Springfield, average distance.

Q. And it takes a differential of ten cents under Springfield?

[fol. 1826] A. Yes.

Q. Now, when you go to the suspended territory in Northern Illinois, do Brazil-Clinton and Springfield take the same rates or not?

A. Today no, for the most part.

Q. They do not?

A. Right.

Q. As I understand it, it is your contention in these proceedings that Brazil-Clinton and Springfield should take the same rates to this territory?

A. That is correct.

Q. Do you know whether or not Brazil-Clinton is less or greater distant than Springfield to the Northern Illinois

territory. Your Exhibit 45, page 5, I think will show the distance from Springfield.

A. Yes.

Q. And your Exhibit 44 will show the distance from Brazil-Clinton as——

A. The average distance from the Springfield district—I will put it this way, please: The average distance shown on page 5 of my Exhibit No. 45 from the Springfield district to the representative destinations is 246.4 miles. However, those representative destinations include those in Northern Illinois and Beloit, Wisconsin.

By Mr. Marks:

[fol. 1827] Q. How about referring to your Exhibit 73 for that same information?

A. Those are the carriers' mileages and not the Coal Trade Association of Indiana's mileages. If you want those, I will give you those, of course, too.

By Mr. Biaett:

Q. Can you compute from these exhibits the fact as to whether or not Brazil-Clinton is the greater or the less distant group as compared with Springfield?

A. To the Northern Illinois points or those including Beloit, Mr. Biaett?

Q. To the Northern Illinois points.

Mr. Wilkinson: Off the record.

(Discussion outside the record.)

By Mr. Biaett:

Q. Mr. Scott, in order to save time, would you know whether the fact that Beloit is included in this computation changes the average mileage picture to any considerable extent or not?

A. I would say it wouldn't.

Q. So that Brazil-Clinton is the greater distant group to Northern Illinois?

A. I will have to look at that, Mr. Biaett. I didn't look at Brazil-Clinton. Just one moment, please.

I am afraid Brazil-Clinton is the greater group by 11.5 miles, which I don't believe can be considered in a distance of 246 or 258 miles. I don't believe you can consider Brazil-Clinton a greater distance for hauls of that length.

[fol. 1828] Q. Well, take Dixon, Illinois, Mr. Scott. I believe your Exhibit 44 shows that the distance from Brazil-Clinton to Dixon is 258 miles, is it not?

A. That is correct.

Q. And your Exhibit 45, page 2, shows that the distance from Springfield to Dixon is 181.7 miles?

A. That is correct.

Q. Now, do you think that Brazil-Clinton should have a differential under Springfield if it is less distance to Chicago, Illinois, but should take the same rates as Springfield to Dixon, where the distance is approximately 70 miles greater?

A. No, I believe, using Dixon as an example, that there might probably be some differential Springfield under Brazil-Clinton. What that would be at this time I couldn't state. It would require study by operators and carriers. But I do believe that to Dixon there possibly could be a slight differential there, which is not true of the rest of the Northern Illinois destination territory.

Q. And you would base that, would you not, on the variation in distance between the two groups?

A. Only partially, not entirely. A differential should never be based on distance alone.

Q. Now, to the territory which was involved in Docket 25595, your exhibits show, do they not, that the difference in distance between Southern Illinois and Princeton is comparatively slight?

[fol. 1829] A. Well, let's look at that exhibit and talk about it. Princeton to the representative destinations, Mr. Biaett, in 25595?

Q. Yes. What exhibit is that, Mr. Scott?

A. That is in Exhibit 49, page 2.

Q. Princeton is a greater distance by 20 miles than Southern Illinois?

A. That is correct.

Q. And I believe in your direct testimony you took the position that the Indiana groups, including Princeton, were related to Southern Illinois in this adjustment, did you not?

A. That is right.

Q. Now, that exhibit also shows that Boonville is 70 miles greater distant?

A. That is right.

Q. Than Southern Illinois?

A. That is right.

Q. Now, do you think, Mr. Scott, that Princeton should take a lower rate than Southern Illinois and Boonville should take a lower rate than Southern Illinois to the Northern Illinois destinations, or any destinations, in view of that greater distance?

A. I agree with the Interstate Commerce Commission; their decision in that matter is proper.

Q. Well, were the differenfials which you referred to as the standard differentials prescribed by the Interstate [fol. 1830] Commerce Commision in that case or in any case?

A. Now we come down to something, Mr. Biaett, that——

Q. I asked you a very simple question. I don't care about their dictum or anything else. Were they prescribed or were they not prescribed? That is the only thing I am concerned with.

A. In my opinion—I am sorry, I will have to answer it the way I want to answer it, not possibly the way you might want. In my opinion the Commission in that case, by their action in that case, prescribed the differentials or approved the differentials—we will use the word 'approved'' rather than ''prescribed.''

Q. I am using the word ''prescribed.''

A. They did not definitely prescribe; they approved them. Let's put it that way.

Q. They approved the then existing differentials?

A. Yes.

Q. And the language of the Commission in that case will speak for itself?

A. Definitely.

Q. You will agree with that?

A. It is very definite.

Q. As to whether or not they were approved?

A. I think so.

Q. Now, you take the position that these differentials [fol. 1831] cannot be based upon distance and that Princeton, despite the fact that it is greater distance than Southern Illinois and Boonville, despite the fact that it is a substantially greater distance than Southern Illinois, should take lower rates than Southern Illinois and that distance should be disregarded?

A. No, not disregarded. It should be given consideration, Mr. Biaett, but not alone, not solely.

Q. Just how much weight should the Commission give to distance in fixing these differentials?

Mr. Wilkinson: I object to that, Mr. Examiner, to having the witness testify as to the percentage it should give.

Exam. Trezise: What weight does he give to it?

By Mr. Biaett:

Q. What weight do you give to it, Mr. Scott?

Mr. Wilkinson: I object to trying to fix by a percentage the amount of weight to be given to any one factor in establishing the percentage.

Mr. Biaett: I am not asking for percentage.

Exam. Trezise: Ask him what importance it is.

Mr. Wilkinson: It is the same thing.

Exam. Trezise: The construction of rates; his opinion.

The Witness: In considering the rates from Southern Illinois and the rates from Boonville, they must be treated or you must give consideration to this rate adjustment applying from mines in Illinois and Indiana as a whole. You cannot any more, I believe, in my opinion, single out a dif- [fol. 1832] ference in distance as important, as the major important paramount factor to be given consideration in arriving at a differential between two groups such as Southern Illinois on the one hand and Boonville on the other, than you can in giving consideration to the rates applying from two points of origin in the same group.

Now, to illustrate what I mean, in answer to your question, you should—we have mentioned that there is a distance of 17 miles, Boonville over Southern Illinois, to the 70 representative destinations as shown in my Exhibit 49-2, which reproduces Appendix D of Docket 25995.

Now, if you will refer to my Exhibit No. 63—I will try to make myself clear—from the Southern Illinois Group to the first point on page 1 of that Exhibit 63, Beloit, Wisconsin, the rate in effect from Southern Illinois to Beloit is $2.40. That rate applies for a distance from Southern Illinois—from Christopher, Illinois, a short tariff route distance of 330.5 miles. It also applies from McLaren Mine on the Missouri Pacific for a distance of 450.9 miles; a difference in distance of 120.4 miles.

By Mr. Biaett:

Q. That is a difference in distance between origins in the same rate groups which the Commission has established?

A. I say you have to give the same amount of consideration to the differentials between your groups as you do to the difference in distance of the points.

[fol. 1833] Q. Just a minute, Mr. Scott. In getting this average difference in distance between Southern Illinois and Boonville, are not the difference in distance which you are pointing out now taken into consideration in that very average?

A. I don't follow that at all.

Q. Now, in getting the average distance from Southern Illinois to show that it is 70 miles less than Boonville, you took into consideration these averages here?

A. Oh, yes, but here is what I am trying to point out, Mr. Biaett, if I may, that you must give—in considering the rates, the differentials that will apply from mines in Illinois and Indiana to this destination territory in the Northwest, it is important that the Commission or any one else give consideration to the group adjustment as a whole and not single out Southern Illinois and Boonville on the one hand and give consideration to that alone, any more than they should give consideration to two points in the same group for which the difference in distance is 120 miles and from which two points the same rate applies.

Q. Then if you don't think the Commission can give consideration to distance in these proceedings, what do you think they should give consideration to?

A. I haven't said they shouldn't.

Q. Well, what factor other than distance should they give consideration to?

A. I think one of the most important factors is competi-

[fol. 1834] tive, the competitive situation that exists between the groups.

Q. What competitive situation?

A. By that I mean this. Using Boonville as an example, it must ship its coal to the markets to which Princeton-Ayrshire, Brazil-Clinton and Linton-Sullivan ships its coal. It must——

Q. And also Southern Illinois?

A. And Southern Illinois, yes; Southern Illinois, Springfield. The Southern Railroad is entitled to traffic from

mines located on its line to this destination territory just as much as any other railroad serving the Indiana groups or a railroad serving the Southern groups. And in making differentials to apply between the Boonville group on the one hand and these other groups, it is important that the differential arrived at be arrived at by taking into consideration the competitive situation existing, so that the Southern Railroad and the mines on the Southern Railroad can ship in competition with the other mines in the other groups.

Q. Well, now, Mr. Scott, isn't the converse also true from Southern Illinois? Aren't the Illinois Central and the Burlington, the New York Central and the Missouri Pacific and the C. & E. I. in the same position? Aren't they entitled to have these differentials based on the service which is rendered from the different groups?

A. Oh, definitely; definitely. You asked me and I gave you an answer to one of the reason why, Mr. Biaett. You [fol. 1835] asked me, rather, what other reasons should be taken into consideration. That is my answer. That is one of them.

Q. That is one of them?

A. Transportation cost is another very important factor. We must realize, of course, in the same example I cited, that neither the operators in those groups, the Interstate Commerce Commission nor the railroads, no one would expect the carriers, in order to permit their mines to compete with other mines, that they should haul coal at a loss.

Q. Now, you take the position that Boonville must have a rate of ten cents lower than Southern Illinois to compete in this territory. Can you tell me why Boonville must have a ten-cent lower rate in order to compete?

A. Yes, I think I can. Boonville is a part of the Indiana rate groups. The coal produced in the four groups in Indiana for the most part, in general—I am not going into detail—in general is similar. They must compete with each other for the markets.

Q. And also with the Illinois groups?

A. And with the Illinois, yes. I am giving you my answer as best I can and then you can ask me these other questions later. And it must be remembered that we have four different rate groups in our Indiana field which, in distance, is not as great as one group in Illinois, the Springfield group; but we have four different rates.

[fol. 1836] Now, in order for Boonville to compete with the three groups to the north of it into this territory, it must have a differential that will permit it to compete with those groups north of it in Indiana.

Now, the three-cent differential over Princeton-Ayrshire or the ten-cent differential over Linton-Sullivan is a differential that permits it to do that, as has been demonstrated by past performances. If that differential were increased, Boonville over Southern Illinois, it would automatically result in an increase in the differential, Boonville over the other Indiana groups, Brazil-Clinton and Linton-Sullivan, and those groups which ship coal to the market which Boonville is shipping to today.

In my opinion as a coal man, the tonnage, any tonnage shipped into this northern market, to which Boonville ships now, should for any reason Boonville lose it, would be more apt to go to the Northern Indiana groups. So that Boonville's strict competition is with two groups, north as well as Southern Illinois.

Your question, it is true, related to Southern Illinois, but I am attempting to tell you why it needs a ten-cent differential Boonville vs. Southern Illinois, from a competitive standpoint, because of its relationship to other groups.

Q. Irrespective of the effect upon the shippers of coal in Southern Illinois? That is your position?

[fol. 1837] A. I don't see any effect upon them. I can't say with respect to the effect because I don't know of any effect.

By Mr. McElroy:

Q. You see no reason why Southern Illinois should not be able to absorb this ten cents over Boonville, do you?

A. Now you are getting into prices and I can't talk about prices.

By Mr. Biaett:

Q. You were just talking about who was going to lose business to whom?

A. Not based on prices.

Q. Based on what?

A. Based upon my knowledge of the shipment of coal in Indiana. I know more about movement of coal in Indiana

than I do in Illinois. My opinion is what I say based on my knowledge.

Q. Now, can you give me from your exhibits the difference in distance between Brazil Clinton and Princeton-Ayrshire and Boonville to this Northern Illinois territory?

A. I have got my exhibits mixed up.

Q. Beween Brazil-Clinton and Boonville is what I mean.

A. Between Brazil-Clinton and Boonville?

Q. Yes.

A. Yes, sir. 138.7 miles.

Q. Now, what is the difference in distance between Springfield and Southern Illinois to this same territory?

A. 128 miles, including Beloit, but that is approximately, [fol. 1838] to the Northern Illinois territory, I believe.

Q. Now, what is the differential between Brazil-Clinton and Boonville to this territory? It is 10 plus 7 plus 3, is it not, Mr. Scott?

A. It is greater than that from mines on the Milwaukee Railroad from Brazil-Clinton to some of these points.

Q. To what points?

A. Rockford, Freeport, Byron, several others and all the other intermediate points to Rockford and Freeport; and is now proposed to do the same thing at Beloit.

Q. At Beloit, under the rates which are published, Boonville is 20 cents over Brazil-Clinton, is it not?

A. In effect today, yes, sir.

Q. In effect today?

A. Yes, sir.

Q. Because there was no change in the Boonville rate?

A. That is correct. Oh, I beg your pardon. That is correct.

Q. And Springfield is 30 cents under Southern Illinois to Beloit, is it not?

A. Yes, sir.

Q. Do you know of any reason why there should be a greater spread between Springfield and Southern Illinois than between Brazil-Clinton and Boonville?

A. I can tell you why there shouldn't be a greater spread between Brazil-Clinton and Boonville. Springfield and [fol. 1839] Southern Illinois I am not—I can't tell you about their competitive situations.

Q. Don't you think that your differentials in Indiana must be measured by the differentials which apply between

the Illinois groups, the principal Illinois groups, Springfield and Southern Illinois?

A. No, not by the distances alone, no.

Q. They must be measured by the competition?

A. That is one of the factors. You see, I am trying to point out there are several factors. I think the most——

Q. Can you tell me this: Just let me ask you a frank question. Why does Boonville have to have a ten-cent lower rate than Southern Illinois in order to sell its coal?

A. Well, I will answer it and start an argument. First of all, you cannot divorce Boonville on the one hand and Southern Illinois on the other in giving consideration to the differentials that should apply from Boonville.

Q. Let's divorce them just for——

A. I can't answer your question when you divorce them. I have no way of answering that question when you divorce them.

By Mr. Wilkinson:

Q. What you mean by that is that the whole thing is one adjustment?

A. That is right.

Q. And you can't take any part of it any more than you can take the short and the long haul of a particular group? [fol. 1840] A. That is right.

Q. Is that what you are trying to say?

A. That is right.

Mr. Biaett: That is all I have for the present, Mr. Examiner.

By Exam. Trezise:

Q. Mr. Scott, can't you make this a little clearer, because the Commission might be a little confused. In your exhibit here that you show the rate and the distance from Victoria to Rockford, which was left to stand in the air in your answer, you show the present rate is $1.50 and the distance is 136.7 miles.

A. Yes, sir.

Q. Now, why would you show that rate when the rate, according to the Carriers' Exhibit 3, and it has a page 28 of Section 5, I believe, shows that there is a rate of $1.50 for 137.7 miles but that there is also a rate of $1.45 for 198.1 miles. Was it your idea that if that $1.45 rate

applied for this longer distance that nothing would move over the lower rate and therefore you should show the higher rate for the shorter distance?

A. No, sir. I can explain that. The exhibit of mine to which you are referring, Mr. Examiner, is Exhibit No. 42. On the face of Exhibit 42 it states that this is a statement of distance via short tariff routes from Illinois groups to representative points in Northern Illinois; also Beloit, Wisconsin.

We have shown in this exhibit the average short tariff [fol. 1841] route distances from each origin line in each origin group, regardless of the rate. This has no bearing on the rate itself, this exhibit; its purpose is to show the average short tariff route.

From Victoria, to which you refer, we show the distance of 136.7 miles with a rate of $1.50, and in arriving at our average distance from the Victoria group and in our average distance from the Illinois groups as a whole, we used 136.7 miles and not the higher distance, via which the $1.45 rate applies.

Now, if you will refer to my Exhibit No. 40, you will find to Rockford, Illinois, from Victoria, under column No. 18, that we have used the $1.45 rate; so that we have used the distance applying via the short tariff route but used the lowest rate. We have computed our distances separately in order to give the short tariff route distance from the groups.

Q. Then you would indicate that there is a rate of $1.45, presumably by an intrastate route from the carrier to Rockford?

A. Yes, sir. We have shown in our Exhibit 40 and have used it in our exhibits throughout. I am sorry I didn't think of that explanation when Mr. Biaett asked me about that.

Q. Did you find this rate which I am unable to locate at this minute of $1.50 as being the suspended rate from Victoria to Rockford in carriers' tariff?

A. No, I believe that is the present rate, sir.

[fols. 1842-1844] Q. My question was, did you find—I will find it.

A. Oh.

Q. Give me time enough.

A. I will look, sir. I will have to look at that. I don't remember each and every one of these.

Mr. Wilkinson: Off the record.

(Discussion outside the record.)

Exam. Trezise: I was about to try to find where the suspended rate was $1.50 and I will find it in a minute.

The Witness: There is no suspended rate of—oh, I beg your pardon, there is. Not a proposed; I am sorry.

By Exam. Trezise:

Q. What is that?

A. I was thinking of a proposed. You mean a suspended rate of $1.50.

Q. A suspended rate of $1.50. Mr. Cardy says $1.60 and——

A. No, I guess the suspended rate is $1.60 and $1.65. The present rate of $1.45 has been proposed as $1.60 and is suspended. The present rate of $1.50 has been proposed increased to $1.65 and has been suspended. Therefore our present rates are $1.45 and $1.50 and our proposed or suspended rate is $1.60 and $1.65.

[fol. 1845] By Mr. Zoll:

Q. Mr. Scott, as I understand your testimony, you are [fol. 1846] of the opinion that the present rates from Indiana to these Northern Illinois destinations are unreasonable, in violation of Section 1, is that correct?

A. The present rates are unreasonable in violation of Section 1? Yes. Our contention is that probably the strongest—our principal contention is that they are relatively unreasonable with relation to the rates from the Illinois fields.

Q. In relation to the present rates from Illinois?

A. Both present and as proposed.

Q. Then the answer to my question is yes?

A. Yes. I modified it just a little.

Q. Well, I wonder, if that is your opinion, why you have not previously filed any complaint against the rates?

A. The answer to that question, Mr. Zoll, is this: That these rates have practically been in constant litigation, or have been constantly—have been actively handled by the carriers and the operators since these rates were first published in 1930. I don't know of a year that has gone by since then that there hasn't been some sort of an attempt made to straighten out those rates. There has been no

lapse of time that we filed a complaint that is before the Commission in the thirteenth section proceeding, or an I & S proceeding. They were before the Commission on the rates from the Milwaukee mines, which wound up in the Supreme Court. They were always in constant—these rates were constantly being acted on or rather I should say [fol. 1847] constantly considered with the purpose of straightening them out.

Q. What was in my mind was this, that a statement that you believed the rates from Indiana unreasonably doesn't carry as much weight with me as it might, in view of the fact that you never bothered to do anything about it.

A. I think if you will check the record in I & S Docket 4368, in which the carriers proposed to reestablish the normal differentials from the Brazil-Clinton Group to most of these Northern Illinois destinations but did not propose to do it from the Princeton-Ayrshire and Boonville Group, you will find Indiana operators were very active in that proceeding, and were successful in that proceeding.

Q. I understood you to say that the present rates from Indiana were unreasonable.

A. Yes.

Q. As they are today, and would continue to be so if these rates were not proposed in this I & S case.

Q. I don't quite—if these rates were not proposed? We don't agree with the proposed rates either, of course.

Q. No. You think that the present rates from Indiana violate Section 1?

A. Yes.

Q. They are excessive? And they have done that for some years, I gather?

[fol. 1848] A. Yes.

Q. All right. It is also your opinion, then, also that the present and the proposed rates from the Illinois mines violate Section 13 of the Act?

A. Present rates from the Illinois and Indiana mines violate Section 13 of the Act? Yes, if I have stated your question right.

Q. Well, I will put it this way: Is it not your opinion, as I read your testimony, that the present as well as the proposed rates from the Illinois mines are unduly low, in violation of Section 13?

Mr. Morgan: I object. That is a legal conclusion.

Mr. Zoll: No, it is not a legal conclusion. I am asking the opinion of this witness.

Mr. Morgan: The witness is not a lawyer.

Mr. Zoll: I didn't ask him if he is a lawyer.

Exam. Trezise: I think we will let him answer this.

By Mr. Zoll:

Q. I just wanted to know, Mr. Scott, what your opinion was. As I read Part 2 of your prepared statement, that is the impression I get of your position.

A. That the rates from Illinois, both the present and proposed rates from Illinois, are in violation of Section 13?

Q. Yes, sir.

Mr. McElroy: He asked you if they were unduly low, in violation of Secton 13.

[fol. 1849] The Witness: They are.——

Exam. Trezise: Well, about this violation of Section 13, I think that is objectionable. I will go along with you on that.

Mr. Zoll: Well, I just call attention to the fact that the witness stated it on his direct.

Exam. Trezise: Giving his opinion about the rates, yes.

Mr. Wilkinson: I think you will find page 2 just states the contention and does not give an opinion; the contention we are making, which we trust the evidence supports.

By Mr. Zoll:

Q. Well, you don't know offhand what your contention——

Mr. Wilkinson: The objection has been sustained to your question.

Mr. Zoll: I didn't understand so.

The Witness: If I can have the question again——

By Mr. Zoll:

Q. Your contention at the present time——

Mr. Morgan: The objection has been sustained.

The Witness: You are asking me to answer that and I don't know whether it has been objected to or not.

Mr. Zoll: Let's start over.

By Mr. Zoll:

Q. Do you contend that the present rates from the Illinois mines to these Illinois destinations are unreasonable?

Mr. Morgan: If he knows.

[fol. 1850] Mr. Zoll: I am merely asking for his position. I want to know what he is contending. Certainly there is nothing objectionable to that.

Exam. Trezise: All right. That is his contention.

The Witness: My contention is that the present rates from Illinois to these destinations are unreasonably low with relation to the rates from the Indiana fields.

By Mr. Zoll;

Q. They must be unlawful, then?

A. Yes.

Mr. Cardy: We wouldn't need the court if we could put witnesses on to prove that.

Mr. Morgan: The whole testimony on that line is objectionable and I think it should be stricken from the record.

Exam. Trezise: I think we will let him give his opinion on it.

Mr. Wilkinson: He was asked what his contention was and he has stated what the contention is.

Exam. Trezise: Yes; we will let that stand.

By Mr. Zoll:

Q. Now, in I. & S. 5139, the carriers have proposed certain increases in the rates. Is it your contention that the rates from the Illinois mines, as proposed, are improper or unlawful?

A. Yes, with relationship to the rates from Indiana.

Q. In view of the fact that you have said that the present rates from the Illinois mines are unduly low, have you in the [fol. 1851] past two or three years taken any steps to have that corrected?

Mr. Wilkinson: I object to that. He has asked that question three times now and the answer has been that there have been cases pending that involve these rates.

Mr. Zoll: No previous question——

Exam. Trezise: You want his answer again or not?

By Mr. McElroy:

Q. Well, Mr. Witness, did you say that the Illinois rates were duly low? Was that your testimony?

Mr. Wilkinson: In relation to the Indiana rates; rates from Indiana to these points.

Mr. Morgan: He can't say that in view of his own testimony.

Exam. Trezise: Do you want him to answer that again?

Mr. Zoll: In vindication of my question, my previous question related to what he did about the rates from Indiana. Now I am asking him what he did about the rates from Illinois. I haven't asked the same question and I haven't got an answer to it.

Exam. Trezise: You haven't got an answer satisfactory to you. I see. Go ahead.

Mr. Zoll: I haven't got any answer. We will leave it go.

Mr. Wilkinson: Question withdrawn.

Exam. Trezise: You asked him why he didn't file a complaint against the Illinois rates. I think that is about the question that you have asked.

[fol. 1852] Mr. Cardy: Certainly, there might be a thousand reasons why he shouldn't file a complaint against them. He might not have been able to get competent counsel. I don't know.

Exam. Trezise: Would you be satisfied to get an answer to that, Mr. Zoll?

Mr. Wilkinson: Maybe he wants to ask if Indiana filed a complaint.

Exam. Trezise: He didn't ask if he did, but I thought he had in mind something else.

Mr. Zoll: Let's sail to smoother waters.

By Mr. Zoll:

Q. Turn to Exhibit 72, please, page 2; the middle frame of figures. This is a very innocuous question, Mr. Scott. You read into the record the total and average of the H. & H. scale to the Illinois destinations, excluding Beloit, and in column 4 you said that the figure that you read was 62——

A. Pardon me, did you say my Exhibit 72?

Mr. Wilkinson: Yes, 72.

The Witness: I have got the wrong one. I am sorry. Mr. Zoll, I have it now; I am sorry.

By Mr. Zoll:

Q. The figure you read in for the middle frame of figures in column 4 was 62.

A. Yes, sir.

Q. I am just wondering whether that can possibly be correct, in view of the fact that all the other figures are cut down by the elimination of Beloit.

[fol. 1853] A. Yes, it is true, Mr. Zoll. I noticed that in making our computations and thought that some one might wonder about it.

But I will point it out this way: The average distance from the composite of the Illinois groups to all destinations, including Beloit, is shown as 291.2. The H. & H. scale rate for that distance is 296. Now, the average distance to the Northern Illinois destinations, excluding Beloit, is 298.1; and the H. & H. scale rate is 289. It breaks, in other words, at the 290 block, and that results in using a rate of $1.80, giving you 62 per cent instead of 61. The 2-mile difference goes into another block.

Q. Now, on page 1 of that exhibit, Mr. Scott, these are the rates which you suggest be the rates from Indiana, as I understand it, with the present or the proposed Illinois rates maintained?

A. As shown on page 2 of this exhibit, it is based on the proposed rates to Illinois.

Q. That is what I thought. In other words, from Princeton to Rockford, you propose a rate of $2.12 for a distance of around 360 miles—that may not be the exact mileage—with a rate of $2.25 obtaining from Southern Illinois for a distance of 369 miles. That is what you are suggesting, isn't it?

A. I will have to get those again before I can answer that. A distance of 360 miles from Boonville?

[fol. 1854] Q. No. Do you want her to read it?

A. Yes. I think that might be the best.

(Question read.)

The Witness: I think those distances are approximately correct and that is true.

By Mr. Zoll:

Q. That would make a difference in rates Princeton vs. Southern Illinois of how much, 11 cents?

A. Thirteen cents.

Q. Thirteen cents. And the present difference in Princeton vs. Southern Illinois is one cent, is it not?

A. Yes, I believe that is right.

Q. How long has that difference of one cent existed?

A. It has existed since the rates from the Southern Illinois group were reduced, complying with the orders of the Illinois Commission. I believe the date was August 1, 1930.

Q. In other words, that difference has been in existence about thirteen years?

A. Yes; subject to negotiations at that time with the carriers or to proceedings before Commissions.

Q. Now, how old are these differentials, Princeton vs. Linton-Sullivan?

A. Is that the whole question?

Q. Yes.

A. Oh, I thought you were going to ask me something else. They are about, more than 20, 25 years old; I don't know exactly.

Q. In other words, that differential is, oh, about ten or [fol. 1855] twelve years older than this differential, Princeton vs. Southern Illinois?

A. Yes, but the standard differential which we are contending, which was in effect and still in effect to a great many other points, was in effect prior to August 1, 1930, the differential which we are contending, 13 cents under Southern Illinois, and was also in effect to other points in the Northern Illinois District and the Northwest.

Q. Now, Mr. Wilkinson asked Mr. Rozene whether natural gas was not less of a factor in Northern Illinois and Wisconsin than in adjacent territories as, for example, Iowa. Mr. Rozene said that he wasn't in a position to answer. Are you in a position to answer that?

A. I know something about it.

Q. Well, would it take too long to give an answer?

A. Oh, the State of Iowa is honeycombed, we might say, with natural gas pipelines serving many of the important cities. And that is borne out by, of course, the reduced rates published by the carriers to the State of Iowa on fine coal to meet that competition; and to Northern Illinois, there is probably very little natural gas competition.

Q. Would that be true of Southern Wisconsin as a whole?

A. Yes, true also of Southern Wisconsin. I am making that answer based on the knowledge I have of the situation.

Mr. Zoll: I think that is all; thank you.

[fol. 1856] Exam. Trezise: We will adjourn until 2:00 o'clock.

(Witness excused.)

(At 12:30 o'clock p. m. recess until 2:00 o'clock p. m. of the same day.)

Afternoon Session

2:00 o'clock p. m.

Exam. Trezise: Gentlemen, when you are ready we will proceed.

HAROLD V. SCOTT, resumed.

Direct examination (Continued).

By Mr. Wilkinson:

Q. Mr. Scott, just before we adjourned for the noon hour, you were referring to Exhibit No. 72. Can you find that exhibit?

A. Yes, sir.

Q. I call your attention to the rate shown in column 2 after Lanark, Illinois. Is or is not that $1.75 a typographical error? Should it not be $1.95, from Brazil-Clinton to Lanark?

A. That is right. On page 1 of Exhibit 72, under column 2, the rate from Brazil-Clinton to Lanark, Illinois, is shown as $1.75. That is a typographical error and should be $1.95. It makes no change in resultant figures.

By Exam. Trezise:

Q. And this change was not because there hasn't been a $1.75 rate by some other route?

A. No, sir.

By Mr. Wilkinson:

Q. This change was due to the stenographer hitting the [fol. 1857] wrong button on the machine.

A. That is right.

Mr. Bather: While we are on Exhibit 72, I would like to ask Mr. Scott some questions.

Exam. Trezise: Mr. Bather.

Cross-examination (Continued).

By Mr. Bather:

Q. On page 1 of this exhibit, you do advocate an increase in the rates from Indiana mines to Freeport and Rockford, do you not?

A. Yes, because we have related our rates to those proposed—in this particular exhibit we have related our rates to those proposed from Southern Illinois. However, the rates shown here, whatever rates may be shown here should be related to those from Southern Illinois, if the rates proposed from Southern Illinois are approved. If any other basis is approved, then our rates as suggested here should be changed to correspond with the standard differentials with the Illinois rates.

Q. And this proposal is based entirely upon your desire to maintain what you say are the standard differentials from Indiana mines?

A. Yes, sir.

Q. What consideration did you give to the consumers of coal in making this proposal?

A. I think a very important consideration.

Q. You must have, to have advocated an increase of 15 cents a ton.

[fol. 1858] A. Well, first, now, I will have to answer that last question. I advocate that because the carriers are proposing increases in the rates from Illinois and these rates are based on that. I have no objections to the rates from Illinois remaining where they are and our rates adjusted to give us our rates based on standard differentials.

Q. Do you subscribe to the proposal of the carriers that 15 cents a ton is justified?

A. In the rates from——

Q. The increase of 15 cents per ton in the present rates is justified?

A. From where, Mr. Bather?

Q. From Illinois, Indiana, or West Kentucky.

A. I say the increase of 15 cents per ton as proposed is not justified from all groups because it then does not establish rates in their proper relationship.

Q. Then why did you propose an increase in the rates from the Brazil-Clinton District to Rockford of from $1.80 to $1.95?

A. If you will read the heading of this statement, you will notice it says, "Statement Showing the Rates that would obtain from the Indiana Groups to the Representative Destinations and to a Composite of the Representative Destinations, Based on the Standard Differentials Between the Indiana Groups and the Illinois Groups." I am not advocating those rates; I am showing what our rates should be based on the rates the carriers are advocating from the Illinois mines.

[fol. 1859] Q. As I take your testimony, you don't care what the rate is, so long as your differentials are maintained?

A. That is absolutely correct.

Mr. Bather: That is all.

Exam. Trezise: Further questions?

Mr. Stadell: I have some questions, Mr. Examiner.

Exam. Trezise: Mr. Stadell.

By Mr. Stadell:

Q. Toward the close of your direct testimony, Mr. Scott, in answer to a question by Mr. Wilkinson with respect to the use of the average distances over the shortest tariff routes that were computed by Mr. Rozene in his exhibits, you stated that it was your position and the position of the operators that you represented in Indiana that the Commission should give no consideration to those average mileages because they did not represent the minimum service from the Southern Illinois Group, is that right?

A. Yes, sir.

Mr. Wilkinson: Well, just a minute.

By Mr. Wilkinson:

Q. Wasn't it from any group? You didn't pick out Southern Illinois, did you?

A. Oh, no, it was from any group.

By Mr. Stadell:

Q. From any group; and by "service" you meant transportation service?

A. Yes, sir.

Q. You think it is imperative, do you, that the Commis-
[fol. 1860] sion in passing upon the rates involved in this proceeding should give consideration to and predicate such rates upon the minimum transportation service performed?

A. Yes, sir, offered by each railroad?

Q. From each group?

A. Yes, sir.

Q. Now, you have stated, I believe, in answer to a question by Mr. Biaett, that you have not included in your average mileage computations in your exhibits the average mileage to any of the representative suspended points from the Evansville group?

A. Yes, sir.

Q. Is that right? You have not included that?

A. Yes, sir.

Q. And the reason you gave for that, as I understand it, was that the production of coal in that group, in your opinion, was small?

A. That was an additional reason. That wasn't the only reason.

Q. What was the additional reason?

A. There was no coal shipped from that mine in that group up to this Northern Illinois territory. It is a mine that serves the local trade, for the most part.

Q. Isn't there more than one mine in the Evansville group that takes the Evansville group rate to the destination territory involved here?

A. There used to be more than one. There was one rather large mine there, but it has gone out of business.

[fol. 1861] Q. What was the name of that mine?

A. Crescent Mining Company.

Q. You say that mine is out of business?

A. Yes, sir, it is closed down.

Q. Is it vacated and permanently abandoned?

A. No, the operation has been discontinued by the operators, sir.

Q. The mine has not been abandoned?

A. What do you mean by "abandoned"?

Q. I mean permanently abandoned and the machinery taken out of the mines.

A. Not to my knowledge, it hasn't. That is up to the last I heard, no.

Q. Can you give us the production of that mine in 1941 or 1942?

A. No, I haven't got the figures.

Q. Was it approximately 100,000 tons annually?

A. It might be. I don't know the exact figure, Mr. Stadell.

Q. What is the other mine in the Evansville, Indiana, district?

A. The Horton Mine on the E. & O. V. Railroad.

Q. Will you give us the annual production of that mine at the present time?

A. I think it is around a little less than 20,000 tons a year, I believe.

Q. Isn't it approximately 30 to 35,000 tons per year?

A. I think it is around twenty.

[fol. 1862] Q. You have no definite figures as to the production in 1941 or 1942?

A. No, I am relying on my memory, of course.

Q. Are those two mines members of the Coal Trade Association of Indiana?

A. The Horton Coal Company is and the Crescent, when it was operating, was a member.

Q. What was the last year that the Crescent Coal Company, Crescent Mining Company, operated?

A. The last full year was last year.

Q. 1942?

A. 1942, yes.

Q. You don't know, do you, whether that mine is going to continue in operation, that is, whether it is going to operate sometime this year or next year, do you, of your own knowledge?

A. No, sir.

Q. Now, you have also omitted from your average mileages from Indiana, the average mileages over the tariff routes from the five origin points on the Milwaukee Railroad in the so-called Bedford, Indiana, group, have you not?

A. I don't know of any mines down there.

Q. That doesn't answer my question, Mr. Scott.

A. Isn't that the question?

Q. Will you answer my question?

A. May I have the question?

Mr. Stadell: Read it, please.

[fol. 1863] (Pending question read.)

The Witness: That is correct. I thought you said "mines".

By Mr. Stadell:

Q. And do I understand that the reason that you failed to include the average mileages over their short tariff routes from those origin points to the representative Northern Illinois points involved in this proceeding in your exhibits was because the production at those particular origin points was of small consequence?

A. No, I think I would say it this way, that there are five origin points down there near Bedford, Indiana, north of Bedford, Indiana. There are no mines located there on the railroad. Those origins were put in in order to move a very small tonnage of coal which those truck operators might want to ship by rail occasionally. The rates only apply to destinations on the C. M. St. P. & P. Railroad and to no other destinations. They are odd rates, have no relationship whatsoever to any group rate, and therefore I do not believe that they should be included in adjusting the rates from the Indiana groups as compared to the Illinois groups.

Q. Your organization has changed its position in that respect, has it not, since the hearing in I. & S. 4368, when you advocated very strenuously that rates from the mines or the origin points in that group be made seven cents over the Linton-Sullivan rates?

Mr. Wilkinson: I object to that question. Mr. Scott was [fol. 1864] not with the organization in the hearing of that case, and the record in that case will speak for itself as to what the association advocated or did not advocate.

Mr. Stadell: Mr. Scott is representing the same organization here, Mr. Examiner. It was represented by his predecessor in Docket I. & S. 4368.

Exam. Trezise: Well, you want his answer? I believe he can answer it; even if he tells you he doesn't know. I don't know what his answer will be.

The Witness: That must be it. I do not know because I was not with the organization at the time.

By Mr. Stadell:

Q. You haven't read the record in I. & S. 4368?

A. Yes, I have.

Q. You didn't familiarize yourself with the position of your organization in that case, on the matter that I have asked you about?

A. I didn't get it from the record, no, sir.

Q. Now, how do you know that these two mines in the Evansville, Indiana, group have not been shipping coal to any of the representative points in Northern Illinois involved in the case?

A. Oh, from my own knowledge of where some of the mines in our group ship their coal; particularly the Evansville group, being so small and having that one mine and one other mine closed down, naturally I am more familiar with the movement in it. I do know, of course, they have shipped occasionally tonnage to Chicago from that large mine in Evansville, which is now out of business, but I know [fol. 1865] of no other into this Northwestern territory.

Q. Did you get any reports from those mines in 1941 and 1942 to indicate they weren't shipping any coal to any of these points?

A. Reports I have seen, they are not shipping coal to these points.

Q. What were those reports?

A. Reports of commercial shipments by the Illinois-Indiana Coal and Coke Committee.

Q. Does that report show the tonnage to individual points like Rockford, Freeport, Rochelle?

A. No, sir.

Q. You couldn't get that information you stated you got from those reports, then, could you?

A. I think so.

Q. Even though it doesn't show the individual destinations, you can still get it?

A. I can still get the information given in the answer, I believe, yes, sir.

Q. In other words, you could get from those reports the tonnage from the Evansville group to Rockford?

A. No, that isn't it. No, I couldn't get the tonnage that was shipped from the Evansville group to Rockford, unless there was no tonnage shipped into that territory; then I could get it.

[fol. 1866] Q. You mean into the entire miscellaneous territory——

A. That is right.

Q. In Illinois?

A. That is right. So if there is no tonnage shown, it is obvious there has been no movement to Rockford, either.

Q. Now, you have left the mileages, average short tariff route mileages out from the origins, tariff origin points in the Evansville, Indiana, group and in the so-called Bedford, Indiana, group, in arriving at your average mileage from Indiana to the representative suspended points for the reasons that you have stated, which I understand are two: First, that the production at those points is small, and, second; that there is no tonnage or very small tonnage moving from those origins to the representative suspended points. Am I correct on that?

A. Yes, and one other additional reason, that the rates from the Evansville district in practically all of these cases before the Interstate Commerce Commission have not played any part in the adjustment. The four major Indiana groups, Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire, and Boonville are the groups that produced almost 100 per cent of the tonnage——

Q. I understand your testimony on that point, Mr. Scott, but there are rates, are there not, published in the tariffs under suspension in this proceeding from the origins in the Evansville, Indiana, group and from the origins in this so-called Bedford group?

A. No.

[fol. 1867] Q. That is true?

A. There are some rates published, not a full line.

Mr. Kuhls: Mr. Examiner, may I interpose a minute? I think I can shorten this up. In respect to the five origins shown in the Milwaukee rail tariff in the so-called Bedford group——

Mr. Morgan: Is this witness testifying?

Mr. Kuhls: Several months ago I issued instructions to our tariff department——

Exam. Trezise: Yes, this will be his testimony, if he desires to contribute it.

Mr. Stadell: Can't we have this off the record? This witness isn't sworn.

Mr. Wilkinson: No, let's have it on the record.

Exam. Trezise: He has been sworn.

Mr. Kuhls: Several months ago I instructed our tariff department to cancel those five origins on the tariff, for the reason there has not been a movement in two years, and the only thing that stopped us from making that cancellation effective was the requirement that we get I. & S. 5139 modified in order to do it. We thought it wasn't important enough to seek modification of I. & S. 5139 to bring that cancellation about; but as soon as I. & S. 5139 is disposed of, those origins will be cancelled from the tariff.

Mr. Stadell: Of course, there is nothing to interfere [fol. 1868] with putting them back as soon as this hearing is decided, is there, Mr. Kuhls?

Mr. Kuhls: I wouldn't put them back if there is to be no movement.

Mr. Stadell: And you made that same statement in I. & S. 4368 too, didn't you, Mr. Kuhls, and you never cancelled those rates out from those origins?

Mr. Kuhls: I don't recall it.

Mr. Stadell: You don't? We will get the record on that.

Mr. Wood: Will Mr. Kuhls be available for further cross-examination on his further testimony at a later time?

Exam. Trezise: If you have a serious question that you should like to ask, Mr. Wood, we will allow you to ask him right now. He is still here.

Mr. Wood: I would like to take time to consider what he said and the purport of it.

Exam. Trezise: All right, you ask him, Mr. Wood, and I think he can answer it.

Mr. Wood: I am not ready to ask a question of the witness who was brought in by surprise. I think I will have some.

Exam. Trezise: You say by surprise? Mr. Kuhls is no surprise.

Mr. Morgan: He is pretty well known but his testimony was a surprise.

Exam. Trezise: All right, let's continue, Mr. Stadell.

By Mr. Stadell:

Q. Now, Mr. Scott, did you hear the testimony of Mr. [fol. 1869] Rozene and see the exhibits that he presented with respect to the long circuitous, short tariff and shortest tariff routes from origins on the Louisville & Nashville Railroad in the Southern Illinois Group to the representative

suspended points involved in this proceeding, and his testimony that there is no coal and has been no coal produced at those origins for a number of years?

A. I heard his testimony, yes.

Q. Would you say that it would be proper to eliminate from your exhibits the average mileages over the short tariff routes from the L. & N. origins in that group to the representative suspended points, for the reason that there is no production of coal and has been no movement at those origins for a number of years?

A. No, I would not.

Q. Did you also hear his testimony to the same effect with respect to the origins, tariff origin points in Southern Illinois group on the Baltimore & Ohio Railroad, namely, that the routes from the origin points on that railroad, in that group, to these points were extremely circuitous and that there had been no coal production at those origin points for a number of years?

A. I heard it, yes, sir.

Q. Would you agree that the average mileages over the short tariff routes from those origin points in the Southern Illinois group to the representative Northern Illinois points [fol. 1870] should be eliminated from your exhibits in arriving at the average mileage from the Southern Illinois group to such points?

A. No, I would not.

Q. In other words, you wouldn't treat them the same as you treated your origin points in Indiana; that is your idea of fairness and impartiality, is it?

A. You are not comparing like things.

Q. *What* aren't you comparing like things?

A. Two reasons. First of all, you have made the statement with respect to the L. & N. and the B. & O. mines in Southern Illinois——

Q. Origin points, not mines, Mr. Scott.

A. Origin points in Southern Illinois group. Would I eliminate them because of their circuity——

Q. No, no, because there is no coal produced at those origin points.

A. That is not what you asked me.

Q. Yes, that is what I asked you. I asked you, would it be proper to eliminate those origin points in arriving at your average mileage from the Southern Illinois group to

the representative suspended Illinois points. All right, answer that question, then.

A. My answer to that would still be no, I would not.

Q. In other words, where you have no production or production of no consequence at tariff origin points in Indiana, you would eliminate those in arriving at your short tariff [fol. 1871] route mileages; but when you come over to Illinois, you wouldn't do it in here, you would continue them in and include those in computing your average mileages?

A. Mr. Stadell, there is a difference. When I speak of the Evansville group, I was speaking of that one group as a whole, and there is no production at the principal mine. There is a small production which doesn't move in this territory, as I testified; but that same thing is true at other Indiana mines.

Going back to Evansville, that is a group and I am talking about the entire group. But when you talk about the Baltimore & Ohio and the L. & N., we have the same situation at our four major Indiana groups. We have mines from which there is no production today. The rates are still there and we use them the same as we did from Southern Illinois.

Q. Would you be willing to have all of them like for like, Indiana and Illinois?

A. Not when they are a part of a group, from which group there is coal moving to the territory involved. I would not, for example, cut the Baltimore & Ohio out of the Southern Illinois group because the Southern Illinois is a group from which there is coal moving, and that is a part of the entire group setup. The same situation is true in Indiana. The very one you mentioned, the Baltimore & Ohio, produces no coal in the Brazil-Clinton District in Indiana but we leave it in that district just the same as we did in Southern Illinois.

[fol. 1872] Q. Because it happens to be the short route from that group?

A. No, that is not the reason. That would be your reason but not mine.

Q. You would continue to compute the mileages over the routes from those origins although there wasn't a pound of coal produced at those origins or shipped over that route and hadn't been for a number of years?

A. That is because it is a part of the entire group adjustment or group setup, rather.

Mr. Wilkinson: Having answered that twice, I think that is enough.

Exam. Trayise: That is twice; maybe three times.

Mr. Stadell: I think your position is clear on the record. Now, are you advocating a higher level of rates from Indiana to points in Northern Illinois than from Illinois mines to Northern Illinois, or are you advocating about the same level?

A. I am advocating a level that will reflect the differential adjustment that has existed to this territory prior to August 1, 1930——

By Mr. Stadell:

Q. Without regard to the level?

A. I am advocating rates based on those levels.

Q. You mean you are advocating rates at the present time that are based on the exact level that was in effect on August 20, 1930?

[fol. 1873] A. I am to this extent, Mr. Stadell, when you get down exact, of course, you have to take each individual figure. I am advocating rates based on the standard differentials that existed prior to that time, and I believe that if you take the State of Indiana as a whole and the State of Illinois as a whole and compare the rates, you will find them on a very comparable level.

Q. What do you mean, at the present time?

A. No, if you put in the rates from Indiana based on their standard differentials with relationship to the rates from Illinois.

Q. What I am getting at, you are not advocating any lower level of rates from Indiana to Northern Illinois than is applicable from Illinois to Northern Illinois?

A. No, I wouldn't advocate that.

Q. And is that based on your understanding or assumption that the transportation conditions from the Illinois groups to Northern Illinois are substantially the same as from Indiana mines to Northern Illinois?

A. That is one of the reasons. Transportation conditions are——

Q. Would that be the principal if not sole reason from a transportation standpoint?

A. From a transportation standpoint—oh, from the railroad standpoint, yes; except that I would qualify that to you. The railroads, of course, are primarily interested in [fol. 1874] their earnings. That is an obvious and accepted fact. And they are simply interested in an ability to move their coal in order to get those earnings.

Q. Yes, I am familiar with your theory on that, Mr. Scott.

A. Thank you.

Q. You stated, as I understood you in your direct testimony, that the present rates from the various Indiana groups to the Northern Illinois points involved are unjust and unreasonable under Section 1 of the Interstate Commerce Act.

A. I believe that is—yes, that is true.

Q. And on that basis, those rates being unjust and unreasonable should, in your opinion, be reduced to a just and reasonable basis, should they not?

A. From Indiana?

Q. Yes. You said they were unjust and unreasonable. Now, if they are unjust and unreasonable, they should be reduced to a reasonable basis.

A. My contention is they are unjust and unreasonable, relatively speaking; that is with relation to the rates from Illinois.

Q. In other words, you make a distinction between relative unreasonableness and intrinsic unreasonableness, is that right?

A. That is right. My testimony here does not purport to go into the unreasonableness of rates per se. It goes into the unreasonableness of the rates with relationship to the rates from Illinois.

[fol. 1875] Exam. Trezise: And are you now talking about the present rates or the proposed rates?

Mr. Stallell: He is talking about the present rates.

The Witness: I am talking about both.

By Mr. Wilkinson:

Q. In answer to that question, you are talking about the present rates, are you not, Mr. Scott?

A. Yes, present rates. I thought he meant——

Exam. Trezise: All right, present rates.

By Mr. Stadell:

Q. And you are here, as I understand it, supporting the railroads' 13th Section petition for an increase in the present Illinois rates, intrastate rates, to Northern Illinois. That is your position, isn't it? That is what you said?

A. No, I don't think that is my position by what I said, Mr. Stadell. I disagree with you.

Q. Are you opposing that 13th Section petition?

A. Neither am I opposing it. I am in it for the reason that I want the Commission, in settling these rates under Section 13 of the Act, and as well as under Section 3, to make rates from Indiana which are on their proper level as compared with the rates from Illinois.

Now, it is not material to me whether the Interstate Commerce Commission arrives at that by increasing the rates from Illinois, by reducing the rates from Indiana or by increasing them partially from one and reducing them par- [fol. 1876] tially from the other.

Q. Well, let's take—you say your present rates. Your present rates to these Northern Illinois points are unjust and unreasonable. Let's just take those as a starting point. That is what you said, isn't it?

A. Yes.

Mr. Wilkinson: Four times so far.

Mr. Stadell: All right, the record will show that, Mr. Wilkinson, without your interruption.

By Mr. Stadell:

Q. Now, what is the present rate—first I will ask you this: Would you say that Rockford, Freeport and Dixon, Illinois, are the three most important of the representative suspended points involved in this proceeding, from a coal-consuming standpoint?

A. Rockford and Freeport and probably Dixon. I believe those are the most important, yes.

Mr. Trezise: Are you bringing in Beloit too?

Mr. Stadell: No, I am talking about Northern Illinois.

Mr. Cardy: That is between Indiana and Southern Illinois.

Mr. Stadell: I am not talking about that. I am talking about the importance of them as coal-consuming points.

Exam. Trezise: Just Northern Illinois.

By Mr. Stadell:

Q. Now, what is the present rate from the Boonville, Indiana, group and from the Southern Illinois group to Rockford?

[fol. 1877] A. The present rate from the Southern Illinois group to Rockford is $2.10. The present rate from the Boonville group to Rockford is $2.12.

Q. And what is the average short tariff route mileage, according to your exhibit, from the Southern Illinois and Boonville groups to Rockford?

A. From the Boonville group to Rockford it is 212 miles——

Q. What?

A. 415. I am sorry, 415 miles. And from Southern Illinois to Rockford, 369 miles.

Mr. Cardy: Wasn't that 408.7, as shown by the carriers?

Mr. Stadell: 415.2, according to his exhibit.

By Mr. Stadell:

Q. Now, in the event that the Interstate Commerce Commission prescribed, as you apparently are suggesting, the suspended rate of $2.25 from the Southern Illinois group to Rockford, what rate are you suggesting from the Boonville, Indiana, group to that point?

A. $2.15.

Q. Now, let's take the Princeton, Indiana, group to Rockford as compared to Southern Illinois. What is your present rate and average mileage from the Princeton group to that point? Well, we will take Freeport in that case. The present rate from the Southern Illinois and the Princeton, Indiana, group and your average short tariff route mileages.

A. Oh, you asked for the mileages, too, Mr. Stadell?

[fol. 1878] Q. Yes.

A. The rate to Freeport from the Princeton-Ayrshire District at the present time——

Q. Is what?

A. Sorry. The rate to Freeport from the Princeton-Ayrshire District at the present time is $2.09. The average short tariff route distance is 390 miles. The rate from Southern Illinois——

Q. 390?

A. Yes. The rate from Southern Illinois at the present time is $2.10; the average short tariff route distance, 371 miles.

Q. According to my computations from those figures, the present rate from the Boonville, Indiana, group to Rockford is 2 cents per ton higher than from the Southern Illinois group, and the average distance from the Boonville, Indiana, group is 46.4 miles greater; and despite that 46½ miles greater transportation service from Boonville, you are advocating a 10-cent lower rate from that group in Southern Illinois, is that correct?

A. You have picked out——

Q. Just answer the question, will you Mr. Scott? It is a very simple answer; yes or no. I am going to come to Freeport now.

A. I am not going to answer that question yes or no.

Q. Isn't it obvious?

A. I refuse to answer the question the way you want it.

[fol. 1879] Mr. Stadell: Mr. Examiner, can't we have an answer? I asked the witness a simple question.

Exam. Trezise: The witness has a right to answer.

Mr. Stadell: He has no right to argue over a question, Mr. Examiner.

Exam. Trezise: I will agree with you, Mr. Stadell, that he——

Mr. Stadell: I want a record here.

Exam. Trezise: Let him answer the question.

Mr. Stadell: Let him answer the question. That is a simple question and he can answer yes or no. It is merely a matter of subtracting one figure from another.

By Exam. Trezise:

Q. Well, can you substract the one figure from the other with a yes or no?

A. No, he didn't ask me that question.

Mr. Stadell: All right, will you read the question, Miss Reporter.

(Question read.)

By Mr. Stadell:

Q. Isn't it yes, Mr. Scott?

A. I refuse to answer the way you want me to.

Q. Isn't the answer yes?

Mr. Wilkinson: As far as Indiana is concerned, we will concede that we are asking a differential Boonville under Southern Illinois of 10 cents per ton; that to Rockford there is a differential on Rockford of Southern Illinois under [fol. 1880] Boonville of 46 miles, or 46½ miles.

Mr. Stadell: Why don't you instruct the witness to answer the simple questions, then, Mr. Wilkinson, instead of arguing every question?

Exam. Trezise: No matter who it hurts, the answer is yes. The attorney says yes. Do you want his answer or the witness's answer?

Mr. Wilkinson: The answer is yes; as Mr. Stadell pointed out, it is obvious.

Mr. Stadell: Then why doesn't the witness answer?

Mr. Wilkinson: Then why ask the question, if it is obvious, if we are going to argue these matters?

Mr. Stadell: We are not arguing; the witness is arguing.

Exam. Trezise: That is a fact that you can figure out for yourself.

Mr. Stadell: All right.

Exam. Trezise: What are you going to ask him about?

Mr. Stadell: I will ask him another question first, if you don't mind.

By Mr. Stadell:

Q. According to my computations, the figures you gave me with respect to the average mileage and the present and your proposed rates from the Southern Illinois and Princeton, Indiana, groups to Freeport, the present rate from the Princeton group to Freeport is one cent lower than from Southern Illinois, although the average distance over the short tariff routes is 19 miles greater, and you are advocat- [fol. 1881] ing in this proceeding that the Interstate Commerce Commission prescribe a ten-cent lower rate from Princeton to Freeport than from Southern Illinois to that point?

A. That is part of what we are advocating, yes.

Q. Now, remembering your testimony a while ago, Mr. Scott, that the transportation conditions from the Illinois mines on the one hand and the Indiana mines on the other to these Northern Illinois points are substantially the same, what justification is there for these lower rates for longer mileages and more transportation service from

these Indiana groups than from the Southern Illinois group?

A. The justification is as follows——

Q. Give me the factors that go to make up that justification.

Mr. Wilkinson: Now, you just asked him. Are you withdrawing your previous question?

Mr. Stadell: No, no.

Mr. Wilkinson: I object to counsel asking two questions at a time. Either withdraw one and ask another or let the witness answer the first one.

Mr. Stadell: The second was a part of the first. I said, give me the factors that go to make up the justification.

Mr. Wilkinson: Then I object to that question because it is a dual question. Ask one question at a time.

Mr. Stadell: There is nothing dual about it.

Exam. Trezise: Why don't you just ask him why and cut [fol. 1882] out the factors.

Mr. Stadell: I don't want to have the witness start on a long argument, Mr. Examiner. I want an answer to some of these questions and not argument.

Mr. Wilkinson: Then I suggest, Mr. Examiner, if counsel doesn't want the argument from the witness, he wait and get the argument in my brief.

Mr. Stadell: I want to know, Mr. Examiner, something about this justification for the position of the Coal Trade Association of Indiana for these sub-normal rates that they are proposing in this proceeding, and something beside the broad general statement that this witness has made thus far in support of what he is advocating. I want to get the full facts, if I can, in the record.

Exam. Trezise: Now, I am trying to help you out. Can't you just confine yourself to one question and then take another question and let him answer the questions?

Mr. Stadell: I asked what his justification was for it.

Exam. Trezise: Let's get it. What is his justification?

Mr. Stadell: He has been saying there are several things. I want to know what those several things are.

Exam. Trezise: Now, instead of talking about it, Mr. Witness, will you tell Mr. Stadell what these several things are?

The Witness: I will be glad to.

Exam. Trezise: In justification of yo[illegible] position. That [fol. 1883] is clear. There is nothing——

Mr. Stadell: In justification of these rates that he has proposed.

Exam. Trezise: Exactly.

Mr. Stadell: That I have just referred to, to Rockford and Freeport.

Exam Trezise: Do you understand the question?

The Witness: Yes.

Exam. Trezise: Let him answer the question.

Mr. Stadell: I will be happy to if he will answer it.

Exam. Trezise: Well, it is up to the Examiner to say that he will answer it or not.

The Witness: In giving consideration to establishing these rates or differentials, distance is an important factor but not of primary importance. I think one of the most important factors we take into consideration in establishing rates and differentials in a group adjustment such as involved in this proceeding is the competitive conditions between the various origin groups and between the various origin railroads serving those groups.

I think another very important factor to be taken into consideration is the importance of the consumer at these destinations having several sources of supply and being free to go to those sources to secure his coal.

Those, I believe, are two of the most important factors to be taken into consideration in making rates or differ- [fol. 1884] entials in a large group adjustment in a territory such as we have here before us.

By Mr. Stadell:

Q. You have given me four factors, as I understand it: distance, competitive conditions, consumer interests and transportation conditions, that you gave me before. Is that right?

A. That sounds right, yes.

Q. Now, you have already stated, have you not, that so far as you know the transportation conditions from the Southern Illinois group on the one hand and the Princeton and Boonville, Indiana, groups on the other to Rockford, Freeport and these other Illinois points are substantially similar?

A. That is correct.

Q. And also you have, by the figures that you have given me from your exhibits, indicated that the average mileage over the short tariff routes from the Boonville and Princeton groups to those two destinations are longer than from the Southern Illinois group?

A. That is correct.

Q. That leaves us the two, namely, the competitive conditions and the consumer interests. Now, are you representing any consumer interests in this proceeding?

A. No, but the people I do represent are mighty interested in the consumer interests.

Q. Do you people pay the freight rates on the coal [fol. 1885] shipped to these destinations or do the consumers?

A. The consumers.

Q. We will come back to this consumer proposition a little later; but let's go to the competitive conditions. You say competitive conditions must be considered. Just what do you mean by that?

A. Yes, you have to sell coal in competition with other coal groups in a given market area.

Q. Let's just confine our attention for the moment to the mines in the Boonville group and the Princeton group on the one hand, the mines in the Southern Illinois group on the other. Will you tell me first—strike that; I want to ask you this:

You have expressed several opinions in this proceeding so far in your direct and cross-examination, Mr. Scott, with respect to the competitive conditions between the mines in these various groups in Indiana on the one hand and then Indiana vs. Illinois on the other. Are you expressing those opinions as an expert in selling coal, mining coal, or in just what capacity?

A. I am expressing those opinions based upon my experience of fifteen years in the coal traffic department of the railroad, and for the past three years as a traffic manager for the Indiana coal operators. I am expressing those opinions on their ability to move coal based on freight rates.

Q. Have you ever been employed by any company in selling coal?

A. No, sir.

[fol. 1886] Q. Have you ever sold any coal in your life?

A. No, sir.

Q. Are you familiar with the plants in the various towns in the destination territory involved in this proceeding or the ability of those plants to burn a particular kind of coal?

A. In a general way, from hearing what my operators have said and from hearing the operators on the railroad which I worked for talk about in the past, I have some slight knowledge of it; but I am no expert, sir.

Q. Would you be able to tell me if I were to ask you about any specific plant at Rockford or Freeport, what kind of burning equipment that plant had and what kind of coal it could use and whether coal from one group was interchangeable in that plant with another?

A. No, sir, I can't.

Q. All you know is what you have been told by some of your operators during the three years you have been over there?

A. No, that is not true.

Q. What else is your——

A. I told you that acting as traffic man in the coal business for a good many years, you just cannot help get a pretty good idea of what the competitive conditions are from a freight rate standpoint and the ability of the operators to market their coal and the railroads to move that coal from their mines to these markets.

[fol. 1887] Q. You mean what you are talking about now is your experience in checking rates and handling coal in the traffic department?

A. Solicitation, handling tonnage, and besides my experience with the Milwaukee Railroad.

By Mr. Vesey:

Q. Are you speaking of the quality of the coals or the difference in the quality of salesmanship?

A. I am speaking of the ability to move coal into a given market area from a freight rate standpoint. That is all I am speaking of. I do not sell coal, I know nothing about prices and all of those things but I do know how the coal moves and I do know what markets the groups get into, what markets they don't, where they have difficulty in competing with other groups in selling their coal. I do have that general knowledge.

By Exam. Trezise:

Q. Well, Mr. Scott, would you have the knowledge, then, to know that if there are relatively higher rates from Indiana to Illinois destinations than from Illinois origins to the same destinations, whether it would impair the movement of interstate coal from Indiana to Illinois? Would you know that?

A. Yes, sir.

By Mr. Stadell:

Q. You would know that?

A. I told the Examiner yes.

Mr. Stadell: All right.

By Exam. Trezise:

Q. Well, would it?

[fol. 1888] A. I believe it would, yes, sir.

Exam. Trezise: If that were the premise.

By Mr. Stadell:

Q. Now, you have talked about competitive conditions. Now you have amplified it somewhat. You said by competitive conditions as reflected by the movement, quantity of the movement, is that right?

A. Yes, sir.

Q. What determines the ability of two mines to compete at a given point?

A. Oh, there are many things, Mr. Stadell, and among the most important is the matter of the freight charges applicable on the coal.

Q. Well, what are the others?

A. Probably price.

Q. What else?

A. Probably quality of the coal.

Q. Probably? Don't you know?

A. Well, yes, the quality of the coal. I am no expert on this. I am just giving you my opinion.

Q. I thought you were an expert.

A. Not on the price or quality of coal, Mr. Stadell.

Mr. Wilkinson: Just a moment, Mr. Examiner. Mr. Stadell can sit there for two hours and try to heckle the

witness. The witness has stated continually he did not hold himself out to be an expert in the sale of coal. He [fols. 1889-1890] told the source of his knowledge regarding the movement of coal and the competitive conditions.

I don't like to keep interposing objections but I do think we have reached a point where Mr. Stadell has got to either take the witness's answer that he is not an expert in the sale of coal and drop it there and go somewhere else or stop cross-examining. If he is going to keep on for hours on this subject, we will never get through.

Exam. Trezise: All right, Mr. Stadell, proceed and don't heckle.

By Mr. Stadell:

Q. You mean, as I understood your answer, you said you didn't know anything about the price of the Indiana coal.

A. I said that. That is right.

Q. You don't know, then—let me ask you this, first: What determines the price that a receiver at Rockford would pay for a ton of Indiana coal as compared to a ton of Southern Illinois coal?

Mr. Wilkinson: He just said he didn't know.

Mr. Stadell: This is a different question, Mr. Wilkinson, if you will just listen.

Mr. Wilkinson: I am listening.

Exam. Trezise: All right, answer the question the way he wants it answered.

The Witness: I don't know what determines the price.

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[fol. 1891] By Mr. Stadell:

Q. It is the price that the operator sets f. o. b. the mine for the coal plus the freight rate from the mine to destination. Isn't that right?

A. No.

Q. Do you understand the question?

A. Yes.

Q. You say no. Why is it "no"?

A. A lot of times there is an intermediate broker in there [fols. 1892-1893] that has a commission on there.

Q. Isn't that included in the price?

A. Not in the f. o. b. mine price.

Q. It isn't?
A. No.

Mr. Wilkinson: Well, the broker would quote it f. o. b. mines probably.

Mr. Vesey: Mr. Examiner, it seems to me we are getting the record here pretty badly muddled on competitive conditions. May I ask one question which I think might straighten it out?

Exam. Trezise: A Daniel come to judgment. Let's have the question.

By Mr. Vesey:

Q. By "competitive conditions", Mr. Scott, don't you mean simply the difference in freight rates from origin groups, and you are answering it without respect to quality of coal, ability to compete as far as salesmanship is concerned or any of the numerous factors that may go into the originally determined price by the coal operator?

A. Yes, I made it as far as freight rates are concerned.

. . . . . .

[fol. 1894] Exam. Trezise: Let's take a little recess.

(Recess taken.)

Exam. Trezise: All right, gentlemen, when you are ready we will proceed. Are you finished, Mr. Stadell?

Mr. Stadell: No, I have some other questions.

Exam. Trezise: Proceed.

By Mr. Stadell:

Q. As I understood your answer to the question that Mr. Vesey asked you, it was that in expressing your opinion as to the competitive conditions between the Indiana mines or between the Indiana mines on the one hand and the Illinois Mines on the other, that you based that opinion on the differentials or differences in the rate and did not base it on the differences in the quality of the coals or the price of the coals?

A. That is right.

Q. In other words, in arriving at that opinion or the opinions that you have expressed on that subject, you have given no consideration whatever to the differences in the

quality of the coals produced in the various Indiana groups or in those groups on the one hand and the Illinois groups on the other?

A. I would probably have to answer that this way, Mr. Stadell. I know that the difference in the quality exists but I can't tell you any more than that.

Mr. Stadell: Will you answer my question now, please? Will you read the question, please, Miss Reporter.

[fol. 1895] (Question read.)

The Witness: That is correct.

By Mr. Stadell:

Q. And would your answer be the same if I asked you what weight you gave in arriving at that opinion or the opinions that you have expressed, to the f. o. b. mine prices charged by the mines in the various Indiana groups on the one hand and those mines—the mines in the Indiana groups on the one hand and the Illinois mines on the other?

The Witness: Read the question. It seems to me that is a contradiction of the previous question.

Mr. Stadell: Strike that; let me reframe that question. I will just ask you this, Mr. Scott:

Q. In arriving at your opinions that you have expressed here with respect to the competitive conditions as between the Indiana mines, or as between those mines on the one hand and the Illinois mines on the other, did you give any consideration or weight to the f. o. b. mine prices of the Indiana coal or of the Illinois coal or to the costs of production at those mines in Illinois or Indiana?

A. No, my opinion was based on the transportation costs or freight rates affecting the ability of the various groups to market their coal in a given market area.

Q. When you say transportation costs, you don't mean the amount of money that it costs the railroads to handle this coal from any mine in Indiana or Illinois to the North-[fol. 1896] ern Illinois territory, but you refer only to the freight rate?

A. The charges resulting from the application of the freight rate, yes.

Q. This morning you stated that the coal produced in Indiana for the most part was substantially similar. What do you mean by "substantially similar"?

A. Oh, the coal, the different veins of coal produced in the different districts of Indiana are somewhat similar, and the quality of the coal itself is generally similar. I am no expert on that, Mr. Stadell.

By Exam. Trezise:

Q. Do you know people burn the coal from both places?
A. Yes, I do. I know if they don't buy it from one group they will buy it in the other.

By Mr. Vesey:

Q. You mean regardless of freight rates?
A. I mean when they have to. I know that for a fact.

By Mr. Stadell:

Q. How many seams of coal are produced in Indiana?
A. Well, there is a third vein, fourth vein, fifth, sixth, little seventh; a vein known as Brazil Block, and a very slight tonnage of a block I know nothing about, known as Minscheil.

By Mr. Wilkinson:

Q. There is also a coal known as Glendora that is a little different than the others, isn't there?
A. Yes, there is also a Glendora coal. Well, I believe that [fol. 1897] the official name of that coal is Glendora.

Mr. Wilkinson: All right.

By Mr. Stadell:

Q. You made some statement to the Examiner that if the differentials or the rates which you are advocating from the Indiana groups to these destinations, in relation to those from Illinois, were not established, that that would affect the movement of the coal. Can you take a typical plant at Rockford, Illinois, or Freeport or any other point in that territory that you desire to select and demonstrate for the benefit of the record why the operator mines in the Princeton group would not be able to complete for the coal used in that plant with the Southern Illinois mines, if the freight rates from the Princeton and Southern Illinois groups were made the same?

Mr. Wilkinson: I object to that question. That would take not only an ability to sell coal and know the selling price, but he would also have to be a combustion engineer to determine for any particular plant what coal could be used in that plant.

Exam. Trezise: You are saying your witness is not qualified to answer that question?

Mr. Wilkinson: I don't think the witness is qualified to answer that question as to a particular plant.

Exam. Trezise: Let the witness give his answer to it if he can.

[fol. 1898] The Witness: No, I don't know enough about the burning equipment and the quality of coal and how it is used, its combustion and so forth, to answer that question.

By Mr. Stadell:

Q. Well, you have no definite means, then, of demonstrating to the Examiner or on the record that the mines in the Princeton, Indiana, group would be unable to compete with those in the Southern Illinois group at Rockford if the rates from those two groups were based on the mileages from the groups and made the same?

Mr. Wilkinson: Do you mean based on mileage from the group or do you mean made the same?

Mr. Stadell: Both. The mileages are about the same.

Exam. Trezise: If the mileages are about the same; assume they are. Can you answer the question?

The Witness: I would like to have that question again, please, Miss Reporter, if you don't mind.

(Question read.)

The Witness: In my general knowledge of the movement of coal into the territories on a rate that would be the same, that it would be very difficult if not impossible for the South groups, from the Princeton-Ayrshire or Boonville group to complete with Southern Illinois. I cannot give you any detail. I have paid no particular point to bringing that out.

Mr. Wilkinson: May I interpolate a question now, Mr. Stadell?

[fol. 1899] Mr. Stadell: Yes, I would like to understand the witness. I would like to understand his last answer.

By Mr. Wilkinson:

Q. You do know, Mr. Scott, what happened when the rates of the Milwaukee Railroad from the Linton field were increased in 1932, the relationships, so that those were practically on a parity with the rates from Southern Illinois, don't you?

A. Yes.

Q. And the traffic via the Milwaukee to Rockford dried up and disappeared?

Mr. Stadell: Well, I object to that statement. There is no evidence of that, Mr. Examiner. I am asking him if it did or it did not and you are testifying. You are putting the words in the witness's mouth, Mr. Wilkinson.

Mr. Wilkinson: I asked your permission to ask a question.

Mr. Stadell: I didn't give you permission to tell what the answer was.

Mr. Cardy: I think that should be stricken from the record.

Mr. Stadell: All right, I do too. I move it be stricken.

Exam. Trezise: All right, strike it out.

By Mr. Stadell:

Q. All you know about the competitive conditions is that there is a certain volume of tonnage moving and that there is a certain difference in freight rate. That is what your opinions have been based on, isn't it?

A. Oh, I think it goes a little further than that, Mr. Sta- [fols. 1900-1901] dell. You have got to talk a little more about it than those two statements. I know the traffic moves, I know the freight rates, I know the result of the freight rates and the traffic that moves, combined.

Q. But you can't pick out any point, either in the Northwest territory that is shown on one of your exhibits, or in the Northern Illinois territory involved here, and show a single instance where any mine in the Princeton, Indiana, group or in the Boonville group would be unable to compete with the mines in the Southern Illinois group if the rates from the Princeton and Southern Illinois groups were made the same and the rates from the Southern Illinois and Boonville groups were made about the same?

A. Yes. I can take any of these points in the Northwest and say that from my knowledge and experience in the coal

business—in the coal traffic business during the last fifteen years, that if the Boonville or Princeton rates were made on the same—were made the same as Southern Illinois, that it would very definitely, materially affect the ability of those operators in the Princeton-Ayrshire and Boonville group to sell their coal into the Northwest territory in competition with Southern Illinois.

[fol. 1902] By Mr. Stadell:

Q. How much higher or lower is the parity from the Princeton, Indiana, group than from the Southern Illinois group to Rockford and Freeport?

A. To Rockford, the Princeton-Ayrshire group—wait a minute. To Rockford, the Southern Illinois rate is one cent [fol. 1903] higher than the Princeton rate. To Freeport it is one cent higher from Southern Illinois than from Princeton-Ayrshire.

By Exam. Trezise:

Q. Except via the Milwaukee, is that right?

A. No sir. The Princeton-Ayrshire group, Mr. Examiner.

Exam. Trezise: Oh, the Princeton-Ayrshire. Thank you.

By Mr. Stadell:

Q. Now, for how long, for how many years has the present rate from the Princeton group been but one cent higher than from the Southern Illinois to those two points?

A. I believe about thirteen years.

Q. Can you tell me of any piece of business at either of those two points that the mines in the Princeton group have lost to the mines in the Southern Illinois group as a result of that competitive rate adjustment?

A. I cannot name you a specific piece of business, no, sir. I haven't gone into it in that detail. If I did know it once upon a time I have forgotten it now.

Q. Well, just what experience——

Mr. Vesey: Let me follow that.

Mr. Stadell: All right.

By Mr. Vesey:

Q. Does that answer assume that there is coal moving from the Princeton group to Rockford?

A. Yes, sir.

Mr. Stadell: There is. The record shows that. The railroads' exhibits show that; I am sure they do.

By Mr. Stadell:

Q. Would your answer be the same if I asked you about [fol. 1904] the Boonville and Southern Illinois groups?

A. Yes, sir.

Q. Can you name any piece of business that the mines in the Princeton or Boonville groups have lost under the present rate adjustment to the points in Northern Illinois to which the rates from Princeton and Boonville are about the same as from Southern Illinois during these past thirteen years?

A. Again I say I cannot name a specific piece of business.

Q. You didn't think it was necessary to ascertain those facts before expressing all these opinions that you have expressed about the inability, so-called, of the mines in the Princeton-Boonville group to compete with those in Southern Illinois if your rates were substantially the same in the same groups?

A. Not as long as I had the general knowledge I had, I didn't think it was necessary to go into the specific piece of business here.

Q. And in your general knowledge and the long experience you have talked about here, you can't pick out any case, either in the Northwest or in Northern Illinois, where if the rates were made the same from Princeton as from Southern Illinois, that the Princeton mines wouldn't be able to get into the plants at that point and sell their coal in competition with coal from Southern Illinois?

A. A specific piece of business I cannot name, for the fourth, fifth or sixth time.

[fol. 1905] Q. Let me ask you this: As I understand it, although you don't know anything about the variation in the quality of the—strike that.

Exam. Trezise: Just ask him a question without telling him what he knows or what he doesn't know. Can you do that, Mr. Stadell?

By Mr. Stadell:

Q. There is, Mr. Scott, or is there a variation, considerable variation in the quality of the coal produced, we will say, by the mines in the Princeton group?

A. By the different mines in the Princeton group?

Q. Yes.

A. I couldn't answer that. From my general knowledge it is approximately similar coal but——

Mr. Stadell: I move to strike out the answer, the last part of it. If he doesn't know he doesn't know.

Exam. Trezise: You asked him.

Mr. Stadell: He said he didn't know, then he goes ahead and he says, based upon his general knowledge. Now, if he doesn't know he doesn't know, based upon his general knowledge or anything else.

The Witness: You are so specific, I try to give you a specific answer.

Exam. Trezise: The witness said he had a general knowledge but he doesn't know the answer to your question.

By Mr. Stadell:

Q. Now, you referred to Southern Illinois as the base [fol. 1906] group. Why do you think that that should be the base group, other than the fact that the Commission recognized it was a base group in some cases?

A. I will explain that if you will bear with me again to state that I have spent a great many years in the Milwaukee Railroad's traffic department, coal traffic department, and as such I naturally handled freight rates——

Q. Do you have to reiterate your long experience every time?

A. You seem to question it so much, Mr. Stadell, that I like to sort of bring it out.

Q. Yes, I know you do.

A. But the fact is this——

Exam. Trezise: May I ask Mr. Stadell if he is placing some great significance on whether or not one group is a base group or another group is the base group? You do place a significance in the determination or the nomenclature that you apply to a particular group?

Mr. Stadell: Well, I think so, Mr. Examiner. I wanted to get the witness's reason as to why the Southern Illinois

Group should be the basic group for the purposes of the rates in this proceeding.

Exam. Trezise: Then I understand you. The answer is yes.

Mr. Stadell: That is right.

The Witness: Is there a question pending?

Exam. Trezise: Yes, about the base group. Read the [fol. 1907] question; his question, not mine.

(Record read as follows: "Now, you referred to Southern Illinois as the base group. Why do you think that that should be the base group, other than the fact that the Commission recognized it was a base group in some cases?")

The Witness: In addition to the fact that the Commission recognized it as the base group in some cases, the railroads have, in my opinion, recognized it as the base group. Going back to 1918 or 1920, in there when the first percentage increases were granted, the rates were first granted, I believe, a full percentage, the same percentage from all the mines; and then later on the differentials were restored by using Southern Illinois as the base group from which to apply the increase or, as on July 1, 1922, to apply the ten per cent reduction. Whatever was done in the rates from Southern Illinois was done in the rates for practically all the Illinois groups and all the Indiana groups.

In addition to that, taking the Midland Electric case as an example, 26558, the Interstate Commerce Commission prescribed rates from Fulton County to Iowa as the base group; they made rates from Southern Illinois a differential over Fulton County. And in adjusting the rates from the Indiana groups, in order that that—to continue the differential relationship to the State of Iowa, they made the same changes in the rates from the Indiana groups as were made from Southern Illinois, whether those changes were reduc- [fol. 1908] tions or increases.

They did the same thing in the South Dakota case. They made the same changes from Indiana as were made from Southern Illinois. They have done it in other cases. I would think that the railroads over the past twenty years have demonstrated very forcibly that Southern Illinois is the base group in Illinois.

By Mr. Stadell:

Q. In other words, you are merely telling me that because the railroads have recognized it as the base group, that is the principal reason why it should be the base group?

A. No, I wouldn't say merely, Mr. Stadell. I was saying that is the way our rates have been taken care of. They have adjusted our rates for the past twenty years, and so has the Interstate Commerce Commission, and have made our rates with relation to what was done from Southern Illinois.

Q. That is what I say. Just because that has been done, that is the only reason it should be continued, is that right?

A. Definitely.

Q. Would you say also that consideration should be given to the volume of the movement from the various groups in determining what should be the base group?

A. No, sir, I don't believe it should.

Q. In other words, you just base it on what has been done?

A. If a good and sufficient reason has been recognized as such, that is true.

[fol. 1909] Q. That is your only reason?

A. Your question is the same question; my answer must still be the same.

Q. Now, has there been any change in the boundaries or the mines that go to make up the groups in Indiana during the past several years?

A. Not in the past several; not in the past twelve years, thirteen years, no.

Q. Weren't a considerable number of the mines in the Boonville group placed in the Princeton group for rate-making purposes about 1930?

A. Yes, that was more than twelve years ago, and there were some of the mines that were placed in the Princeton-Ayrshire Group.

Q. Well, the majority, that is from the standpoint of production, were put from the Boonville to the Princeton——

A. Yes, there weren't very —. mines in the Boonville group and by putting the majority in there, you still wouldn't have so many.

Q. But the production of the mines that *were* shipped was quite substantial, was it not?

A. I can't answer that question now, Mr. Stadell. I don't know what they were producing then, offhand.

Q. Well, they shifted practically all of the mines except one or two, or one mine of consequence, from the Boonville to the Princeton group at that time, did they not?

A. Yes, but I still would like to find out just how many [fol. 1910] mines they were in there, not origin points, but how many mines they were in there at that time, before I would say it would be a considerable number or not.

Q. And in the last year or so the railroads, after having placed the large new mine of the Tecumseh Coal Corporation in the Boonville group for rate-making purposes, shifted it over to the Princeton group, did they not, with respect to the rates on certain railroads?

A. With respect to the rates on certain railroads, yes.

Q. Yes.

A. Just how many of those railroads were involved in the proceeding, I cannot say, if any.

Q. Now, as I understand your theory that you are advancing in support of the rates that you are proposing here, it is this: that the rates from the Southern Illinois Group to the Northern Illinois points involved, or the propriety of those rates, should be measured by the mileage from that group to those points?

A. That is one way of measuring them, yes.

Q. How else would you measure it? What else are you advocating that the Commission use in measuring the propriety of the suspended rates or the present rates from that group to the Northern Illinois points involved?

A. As far as this proceeding is concerned, I have shown them, as to my exhibits, as to mileage and percentage of the [fol. 1911] various scales; and also they should take into consideration the differentials that have existed for a good many years in arriving at the resultant differentials that should be prescribed.

Q. Just looking at the present and suspended rates and rates that you have advocated that the Commission prescribe from the Southern Illinois group to the Northern Illinois territory involved, it's your opinion that those rates should be measured, or their propriety should be measured solely by the average mileage and the transportation conditions?

Mr. Wilkinson: I object. That is making a statement that the witness didn't testify on direct. He is predicating a question by way of a positive statement that the witness did not testify to on direct examination.

Exam. Trezise: Well, just so the witness isn't misled.

Mr. Wilkinson: I still think we should have our questions framed properly, Mr. Examiner.

Mr. Stadell: All right, strike that question and I will ask him this question:

By Mr. Stadell:

Q. What have you presented to the Commission other than the mileage as a measurement of the present and suspended rates from the Southern Illinois group to Rockford and Freeport and these other points?

A. I have presented to the Commission in evidence here the relationship in rates that existed under the standard differentials prior to 1930 when disrupted by the order of [fol. 1912] the Illinois Commerce Commission.

Q. You understood my question, Mr. Scott. I am talking about the level of the rates from the Southern Illinois group to these points.

A. The level, Mr. Stadell, to which you are referring was a part of the evidence offered by me to justify what we are asking, and I think in order to say what purpose the level serves, I must preface it by a statement of what we are asking for and that level proves.

I am not asking the Commission to base rates on levels. I am asking the Commission to give consideration on what we are seeking here, showing that the level of the rates from Indiana is on a higher basis than the level of the rates from Illinois, whether you take the present or the proposed rates.

Q. That is based on your exhibits?

A. Definitely.

Q. In measuring the level or the reasonableness of the rates from the Southern Illinois group to these Northern Illinois points, is it your position that only mileage should be used, or should some other factors be considered, leaving out the question of the differentials for the moment?

A. To prove what we are seeking, in order to substantiate what we are seeking in a rate adjustment in this proceeding, I think that percentages of scales conclusively show that our demands are not unreasonable. I think that

[fol. 1913] our earnings per car and per car mile demonstrate that it is not unreasonable.

Q. What do you mean, it is not unreasonable? The rate that you are advocating from the Boonville group, for example?

A. That is right; with relation to the other groups.

Q. And you said that if the suspended rate from Southern Illinois of $2.25 was approved or prescribed that, to Rockford, for 369 miles, that you wanted a rate of $2.15 per ton from the Boonville group for 415 miles, is that right?

A. That is correct.

Q. Did you consider that rate of $2.15 per ton from the Boonville group to Rockford for 415 miles of transportation service to be a just and reasonable rate?

A. At no time have I considered any particular rate in this particular adjustment.

Q. Just confine your attention now to that one rate.

A. You asked me what I considered.

Q. I didn't ask you that.

Mr. Cardy: I object to that question unless Mr. Stadell takes into consideration the size of the Illinois group, Southern Illinois group vs. the Boonville group. Otherwise the questions are not comparable.

Exam. Trezise: Well, I think the witness can answer that, if that is his answer.

Mr. Stadell: All I asked him, Mr. Examiner, — if he thought that the rate that he is proposing of $2.15 from [fol. 1914] the Boonville group to Rockford, for 415 miles, was a reasonable, proper rate.

Exam. Trezise: And he surely can answer that question.

The Witness: I can answer.

By Mr. Stadell:

Q. You can't answer?

A. I can.

Q. Oh. Just in and of itself, now.

A. Yes. In and of itself, just to Rockford in the particular instance you gave.

Q. All right.

A. To Rockford, Illinois, from the Southern Illinois group, for a spread in distance between—

Mr. Stadell: Now, just a minute. I object to the witness going over that again. He has been over that fifteen times.

The Witness: You are asking me the question again.

Mr. Stadell: No, I didn't.

The Witness: Then somebody else did.

By Mr. Stadell:

Q. Mr. Scott, can't you answer questions?

A. Yes.

Q. Will you answer them?

A. I am sorry you don't get the answers you want, but you asked me.

Mr. Stadell: Mr. Examiner, can't we have an answer?

Exam. Trezise: He said in and of itself. Now, answer it the way he asked it. I don't know whether you can tell a rate is intrinsically reasonable or not. I haven't found [fol. 1915] anybody else that could do it very well, unless you can compare it with something else.

Go ahead and give your answer.

Mr. Stadell: If he doesn't know, let him say so.

The Witness: Let me give my answer, will you?

Mr. Stadell: I object to this witness going over the same thing fifteen times, Mr. Examiner, which is not responsive to the question.

Mr. Cardy: We haven't heard anything.

Exam. Trezise: The Examiner will determine——

Mr. Stadell: He has an attorney. Will you please let his own attorney take care of him, Mr. Cardy.

Exam. Trezise: The Examiner will determine whether it is responsive. Now, let him answer the question.

The Witness: The carriers have a rate to Rockford of $2.10 from Southern Illinois for a distance of 312 miles from a point in the Southern Illinois group, and also have one for 409 miles from a point in the Southern Illinois group.

By Mr. Stadell:

Q. How many miles?

A. 409.

Q. What was the first one?

A. 312: Now, the difference between those two mileages is 96.9 miles, and you have the same rate applying from those two points in a group, even though the difference in short tariff route distance is 96.9 miles. I can't see any [fol. 1916] thing wrong with that, nor can I see anything wrong with the fact——

Q. What exhibit are you referring to, Mr. Scott?

A. My Exhibit 63.

Q. 63, what page?

A. 2, Rockford, Illinois.

Q. And the mileages from all origins, including the ones that you have given, are considered in arriving at the average from that group, aren't they?

A. That is correct.

Q. In comparison with the average mileage from the Boonville group?

A. That is correct.

By Exam. Trezise:

Q. Then your answer wasn't the answer to his question; but you answered by merely saying by these various comparisons, not in and of itself.

"In and of itself," as the Examiner understands it, is what degree of profit that the railroad can make out of that particular rate by hauling traffic of that distance, but your answer is by comparison.

A. Yes, sir. That is the only way I know of, is by comparison.

Exam. Trezise: Well, he doesn't know the answer to your question.

Mr. Cardy: Well, Mr. Examiner, didn't he say that the present rate from Boonville, which is ten cents under Southern Illinois, is a reasonable rate based upon these compari- [fol. 1917] sons of distances which he put in the record from Southern Illinois? That is what I understood his testimony to mean.

Exam. Trezise: I think he said that too, Mr. Cardy. Will you read that last statement Mr. Cardy made, Miss Reporter?

(Record read.)

The Witness: Mr. Examiner, while I have the carriers' exhibits here, the figures may vary a little bit, but the

short-line distance to Rockford is 330 miles. The long-line distance from Southern Illinois to Rockford, the most distant line is 558 miles.

By Exam. Trezise:

Q. You mean the longest?

A. Yes, and the longest from the Boonville group is 408 miles; and based upon those computations, I understand that he said that the Boonville rate was the proper rate.

The Witness: Right.

By Mr. McElroy:

Q. That is, you got the spread between the mean and the extreme distance in the Southern Illinois group and assumed that since that spread was so much, that an additional mileage, Boonville over Southern Illinois, would justify the Boonville rate?

A. Yes, and I would like to make this further observation——

Q. Is that your theory?

A. May I correct that statement you made, Mr. McElroy, first. You said the extreme distance. I do not mean the longest possible haul from the Southern Illinois group. I mean the longest haul via the short tariff routes from [fol. 1918] the Southern Illinois group. I want to make that clear.

Q. Now, just following your theory and using the Springfield, Illinois, group as a base, you practically bring Southern Illinois on the Springfield rates, don't you, since the Springfield group is one of the largest groups, and Southern Illinois is one of the smallest in the Illinois groupings?

A. I wouldn't say Southern Illinois was one of the smallest. I would say Springfield is the largest, and the others are about the same.

Mr. Cardy: Mr. Examiner, there is practically only one mine there, Boonville.

Mr. Stadell: Are you going to testify, Mr. Cardy? If you are, I suggest you be sworn.

Mr. Vesey: Is this off the record?

Exam. Trezise: No, this is on the record; and the witness, the Examiner understands it, said he didn't place any undue confidence or didn't feel that he was sufficiently to-

tified by showing these extreme distances and that he wasn't relying on those.

By Exam. Trezise:

Q. Didn't you say something of that kind?

A. I don't understand that, what you mean, Mr. Examiner.

Q. You have an exhibit in which you showed the extremes; not the means. You showed only the extremes.

A. Between distances?

Q. And somebody asked you why you showed them and [fol. 1919] you said, well, you just put them in there because you copied them out of the railroads' exhibits.

A. No, those are my own figures. They are not taken out of the railroads' exhibits.

Q. You mean the longest distances and the shortest distances, didn't you have an exhibit of that kind?

A. Yes, sir.

Q. Maybe that was somebody else.

A. No, I have an exhibit, but it is the longest distance from any point in the Southern Illinois group, the longest distance from any point in the Springfield group and Indiana groups; shortest distance from any points in those groups to a given destination via the short tariff route distances; via all distances, not via the longest, as the railroads have shown. Mine is different.

Q. Well, I will go along with you on that if you want to make that correction, but I understood you to say that you have shown those things but that wasn't the real thing that you relied upon to justify your contentions here, but that you were relying upon these short tariff routes.

A. Yes, sir, and that is all I have used, is short tariff routes. Those are short tariff routes, Mr. Examiner, that I quoted.

By Mr. Stadell:

Q. But they are not the average?

A. No, they are from each individual point.

[fols. 1920-1921] Q. You shifted from one to the other?

A. No, I didn't shift.

* * * * * * *

[fol. 1922] By Mr. Stadell:

Q. On page 3 of your prepared statement, Mr. Scott, you refer to the number of tons of coal shipped from the Indiana mines to certain destinations during an eight-month period, April 1 to November 30, 1942. What destinations [fol. 1923] did that tonnage move to?

A. It moved to most of the destinations involved in this territory; involved in this proceeding, I mean.

Q. You haven't the names of those specific points?

A. All the destination involved in this territory, Mr. Stadell. That is to which we ship coal.

Q. You mean within the boundary, the line that was shown on your map, Exhibit No. — what was that, showing the outlines, the destination territory?

A. Exhibit No. 40. 39; I beg your pardon.

Q. 39?

A. 39.

Q. From what source did you obtain those figures?

A. From the statements submitted by the operators, members of our association.

Q. The figure that you gave, then, would not include the tonnage shipped by mines in Indiana that were not or are not members of your organization?

A. If there is any—no.

Q. Several times you emphasized the fact that the Illinois Central established the same basis of rates from mines on its line in the Linton-Sullivan Group to Rockford, Freeport and intermediate points as were applicable from mines on the Milwaukee. Do you consider the Illinois Central an important carrier from Indiana or from that group? [fol. 1924] A. It is not the most important but I consider it an important carrier and it is developing into a much more important carrier at this time.

Q. You mean you anticipate that the tonnage over that road to this Northern Illinois territory from the Linton-Sullivan Group will undoubtedly substantially increase?

A. No, I don't mean that. I don't know what will be done, of course. I mean that the tonnage that will be shipped from mines located on that railroad will increase, or that the production of mines on that railroad, however, will increase.

Q. So that you do consider it an important carrier from the Linton-Sullivan Group?

A. They are all important, yes, sir, every one of them.

Q. Now, in answer to a question by Mr. Wilkinson at page 31 of your prepared statement you stated that the only carriers serving mines in Indiana and Southern Illinois were the C. & E. I. and the New York Central. That isn't correct, is it, in view of your statement that the Illinois Central serves the Linton-Sullivan Group?

A. No, the Illinois Central serves mines in Southern Illinois, and my comparison was lines—the majority of the groups in Indiana as compared with Southern Illinois, that serves more than one group.

Q. You gave some figures at page 5 of your prepared statement purporting to represent the investment in coal [fol. 1925] mining properties in the Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Boonville, Indiana groups. Can you tell us, just briefly, what those figures represent? Do they represent the original investment or do they represent the original investment minus depreciation and depletion, or just how are they arrived at?

A. The way I would have to answer that is that the figures were submitted to me from reports submitted by our operators, showing the investment in the mines in the States. Now, I really couldn't say, Mr. Stadell, just whether that is less depreciation or how the final figure is arrived at. I am not sure of that. It is my understanding, though, that it represents their investment at the present time; as in the year 1942, I should say.

Q. Does the figure for the Princeton-Ayrshire Group include the investment in the large new strip mine of the Tecumseh Coal Corporation, or was that omitted?

A. No, that is in there. In the Princeton-Ayrshire Group, you said?

Q. Yes.

A. Yes, that is in there.

Q. Have the mines in Indiana made any effort during the past ten or twelve years to improve the quality of their coal through the installation of improved preparation plants and washing plants?

Mr. Cardy: That is objected to as immaterial. It has [fol. 1926] no bearing on the level of the rates.

Mr. Stadell: It certainly has a lot of bearing, Mr. Cardy, in view of Mr. Scott's testimony. The rates should be made——

Mr. Cardy: It really gets into the question of cost, and I object to it in the first instance.

Mr. Stadell: It is on the question of competitive conditions that Mr. Scott has talked about all through his testimony. As a matter of fact, his entire case is based upon nothing but competitive conditions.

Exam. Trezise: Mr. Stadell, your thought is that that is part of the competitive situation that would enable one group to compete with the other?

Mr. Stadell: That is right.

Exam. Trezise: A commercial condition existing?

Mr. Stadell: That is right.

Exam. Trezise: Oh, I think we will let him answer the question, if he knows the answer to it.

The Witness: May I have the question again, please, Miss Reporter?

(Question read.)

The Witness: They not only have made an effort, they have done that.

By Mr. Stadell:

Q. And has that been general among the mines in the various Indiana groups, or has it been confined to any one group?

[fol. 1927] A. I would say from my knowledge that it has been more or less of a general improvement, general thing.

Q. And during what period has that taken place, particularly?

A. I couldn't give the period. I think it has been continuously going on. It is a practice amongst all mines.

Q. What I mean is, it has been during the last ten or twelve years, hasn't it?

A. It has been happening during that as well as previous to that. I wouldn't say. I don't know a lot about the previous ten years as to the actual mine operations, Mr. Stadell, that is the actual mine operations.

Q. Could you tell us how many of the mines in Indiana at the present time have coal-washing plants?

A. Approximately 25 to—oh, approximately 25 to 35; I don't know the exact number.

Q. And how many mines are there in Indiana?

A. Oh, all told, there *is* probably about——

Q. Rail served, I am talking about.

A. All told there *is* about 50 mines, and practically all the large mines have washing plants.

Q. Practically all the large mines have washing plants?

A. Yes, sir.

Q. And those have been installed during the past ten or twelve years?

A. Or before——

Mr. Wilkinson: Mr. Scott has answered that he didn't [fol. 1928] know when they started to install them. I don't think that he should be asked the same question when he said he didn't know when they started, to try to pin him down to a date that, historically and off the record, is not a correct date.

By Mr. Stadell:

Q. Do you know of any mine in Indiana that had a washing plant prior to ten years ago?

A. I know there were some. I couldn't name them, but I know there were some that had it prior to ten years ago, yes, sir.

Q. You can't name any now that had a plant, washing plant, prior to ten years ago?

A. I would have to look at the record. Some of those mines might have had it nine years, some eleven; I don't know, Mr. Stadell. You are tying me down to a specific date.

Q. I am not confining you to ten years; I said ten to twelve years, and your answer is that you couldn't name any that had a washing plant prior to that time.

A. There are some but I can't name the mines.

Mr. Wilkinson: Off the record.

(Discussion outside the record.)

Mr. Cardy: Mr. Examiner, I assume the same situation in Illinois, when they improved their conditions in Indiana they improved them similarly in Illinois. I can't see the pertinency of this testimony unless they are going to put in what the others are.

Mr. Stadell: Put it in, if you want them in.

[fol. 1929] Mr. Cardy: I don't want them in.

Mr. Stadell: You don't?

Exam. Trezise: That evidence could be used, as the Examiner understands it, by undertaking to show that it was not the rate situation but it was some commercial condition that enabled one person to sell coal and the other fellow might not be able to sell. The freight rate might have nothing to do with the transportation.

Mr. Cardy: In order to make that evidence competent, we will have to have that evidence in Illinois, so we can compare them.

Exam. Trezise: That is correct.

Mr. Stadell: Then put it in.

Mr. Cardy: I just want to be understood, I have no objection to this evidence going in, but I really think it is immaterial unless it is connected up.

By Mr. Stadell:

Q. Have you your Exhibit No. 66, Mr. Scott?

A. Yes, sir.

Q. You show certain points intermediate there to Beloit, Wisconsin, such as Roscoe Siding, Latham Park, Shirland, and all that. Can you tell me how much coal is consumed at those points?

A. No, I haven't made a study.

Q. Do you know whether any is?

A. Yes, I do know there is some.

Q. How much is consumed there?

[fol. 1930] A. I said I didn't know.

Q. You don't know?

A. You asked me if I knew how much coal; I said no. You asked me whether there was any, I said yes.

Q. Where did you get the information there was some?

A. My knowledge of the coal traffic business.

Q. You can't give us the tonnage that moved during any year to any of these points?

Exam. Trezise: He cannot, he said.

Mr. Stadell: All right. That is all I have.

Exam. Trezise: Do we have further questions?

Mr. Cardy: I have one or two questions.

Mr. Marks: Mr. Examiner, I have one or two questions.

Exam. Trezise: Mr. Cardy spoke first so I guess we will let him go ahead, Mr. Marks.

By Mr. Cardy:

Q. Mr. Scott, in this proceeding, the evidence up to this time, as I get it, we have two general adjustments, that is, namely, the adjustment of rates from Illinois on the one hand and Indiana on the other, to points in Northern Illinois, where you have a fixed and established differential adjustment; in other words, mines located approximately 150 miles south of this destination territory, including Western Kentucky, I might say, are on a differential basis. That is true, is it not?

A. In some cases, yes.

Q. Now, in addition to that adjustment we have short-haul [fol. 1931] rates from the mines in Northern Illinois to points in Northern Illinois, where the hauls are relatively short, and I believe you will agree with me they are not on a fixed differential basis, is that not true?

A. Well, for the——

Q. Well, take to DeKalb. Just refer to Carriers' Exhibit 4, Section—I think it is 5; page 5. Section 5, page 4—page 5. That exhibit shows that we have distances varying from 72 miles up to 130 and rates varying from $1.29 up to $1.50.

You do not intend to convey the idea that each one of those destinations, this destination, that there should be a fixed and established relationship in the rates with the other groups?

A. No, I don't contend that here.

Q. Can you state what is a general practice here as to where we should draw the line as to short hauls, which we generally know as short haul rates? What is your adjustment in Indiana? Isn't that about 130 miles?

Mr. Wilkinson: Just a minute. I object to that question, Mr. Examiner. He testified nothing on his direct examination as to where a rate adjustment began and where you had short-haul rates; beyond the scope of his direct examination.

Mr. Cardy: All right, maybe I can shorten it.

Exam. Trezise: Can you develop that from some other witness who testifies about it?

Mr. Cardy: Let me just ask him one other question on this particular point:

[fol. 1932] By Mr. Cardy:

Q. Can you name any rates from the Northern Illinois Field involved in this proceeding, Northern Illinois District, that *is* at the present time in violation of Section 13 and casts an undue burden on interstate commerce? I mean so far as the shippers of Indiana are concerned.

Mr. Wilkinson: Isn't that calling for a legal conclusion, Mr. Examiner?

Mr. Cardy: There are certainly a lot of legal conclusions in this proceeding, in these various briefs that we have filed.

In other words, here is a shipper in Indiana using interstate rates. I want him to point out one rate from the mines in Northern Illinois to destinations involved here that is an undue burden on interstate commerce, as far as his shipments are concerned.

Exam. Trezise: Well, can you tell what would be a burden on interstate commerce? Let the Commission determine whether it is undue. Or you can give your opinion about an undue, if you want to. Can you answer the question?

Mr. Wilkinson: We have shown the facts as to the situation. I think that is all that the witness could be called upon to answer.

By Mr. Cardy:

Q. Can you state where you have lost any shipments, or where the rates from Northern Illinois materially affect the movement from points in Indiana, one destination, and what the adjustment should be?

A. No, that would require a lot of study to pick out one [fol. 1933] point, pick the district of Northern Illinois, from Indiana.

Q. In other words, Mr. Scott, I understand your contention is as far as the rates from Northern Illinois, they are not a material factor so far as a movement from coal from Indiana, interstate coal, to this destination is concerned, isn't that the truth and the fact, and you regard——

Exam. Trezise: You have asked him a question. Let him answer that question.

Are they or are they not, according to you, a real factor in the 13th Section proceeding that he is talking about, the rates to Northern Illinois?

By Mr. Cardy:

Q. From the Northern Illinois group to Northern Illinois points.

A. As shown by my exhibits and testimony in this case, it is our contention that all the rates from mines in Illinois are material.

Q. That is a pretty general statement. In support of that statement, will you pick out one point of origin in Northern Illinois, or from the Northern Illinois group to some representative destination where it would materially affect it?

A. No, I can't do that now, Mr. Cardy. It would require a study on my part to do that, to name one particular destination in the Northern Illinois group on the one hand and Indiana on the other.

Q. Now, one other question. Mr. Scott, I want to talk [fol. 1934] about the Boonville situation a little bit. In these exhibits you show that there are eight points of origin in the Boonville district. I don't quite understand how you arrive at eight points of origin. Can you tell us what the situation is on the Boonville with reference to the actual originating points?

A. Well, there *is* prabably two or three mines in the Boonville district of Indiana.

Q. Will you give me definitely how many mines there are in the Boonville district, and I take it they are all on the Southern Railway, is that true?

A. That is true. Boonville Railroad is the only one that serves the——

Q. Give us the largest mine; the largest mine in the Boonville district.

A. The Sunlight Mine of the Sunlight Coal Company.

Q. That is the largest mine? And what are the other two or three mines you mentioned? Are they so insignificant that you can't remember?

A. No, I am afraid I remember one or two of them. Mariah Hill.

Q. Now, would you say, as a general proposition, that the only real mine in the Boonville district is the Sunlight Coal Company mine located on the Southern Railway?

Mr. Stadell: I object to that, Mr. Examiner, "the only real mine." What does he mean, real mine?

Mr. Cardy: Well, maybe that isn't proper.

[fol. 1935] Exam. Trezise: Maybe the witness knows what he means.

By Mr. Cardy:

Q. Well, tell us about the other mines.

A. The Sunlight Mine is the largest mine in the Boonville district and is a large producer. I don't know its actual production; what its production is, I don't know.

Q. Is there any other mine down there that compares with its production?

A. Not in the Boonville district. You have got the Mariah Hill, which is another large mine; then you have got two or three very small mines.

Q. Now, the Sunlight Mine is the largest mine, is it not, located in the Southern part of the State of Indiana?

A. Yes, sir.

Mr. Stadell: Now, just a minute. I object to that: "Southern part of the State of Indiana."

Exam. Trezise: Well, the witness said it was. There can't be an objection to that.

The Witness: I would like to interpose here, I understand he means, from his question he means the Boonville district by the Southern district of Indiana. That was my understanding of his question.

Exam. Trezise: You stated it was the largest mine in the Boonville group once or twice, now. What is this other question?

Mr. Stadell: Mr. Cardy wants to make that the largest [fol. 1936] mine in the entire Southern half of Indiana.

Mr. Wilkinson: You would also include Evansville in that Southern part:

Mr. Cardy: I know; you dealt with Evansville. I won't waste any time on that. I think the record is clear on that.

By Mr. Cardy:

Q. Now, Mr. Scott, will you refer to Carriers' Exhibit 4, Section 3. That is the adjustment to Freeport. I don't see any——

A. Page 8, Section 3, Mr. Cardy?

Q. Now, in figuring the mileages, regardless of whether they are short distance or longer tariff routes——

A. May I interrupt, please, to ask you what page you are on?

Q. Page 8.

A. Page 8?

Q. Adjustment to Freeport.

A. I still can't—I am sorry. I don't know whether I am——

Q. This is Exhibit 4.

Mr. Wilkinson: Part what?

The Witness: I have got Exhibit 4. Now, what section?

By Mr. Cardy:

Q. It is Section 3, according to my——

A. Section 3, page——

Q. Page 8.

A. That is Freeport, Illinois.

Q. Yes.

A. Yes, sir, I have it now. I was in Section 5 all the time. [fol. 1937] Q. Now, in using as the relative mileages, in testing rates in this proceeding, you will note from Southern Illinois, Item 917, a mileage of 371.2 miles as used in Southern Illinois?

A. Yes, that is the average from the group.

Q. You will notice in column A the short tariff route is 346 miles.

A. 340.6, yes, sir.

Q. And the longest tariff route is 475 miles.

A. 476, yes.

Q. Thereby arriving at an average of 371.2. Now, if you will drop down to Boonville, you will notice the short tariff route is 408 miles.

A. Yes, sir.

Q. The longest tariff route is 408 miles, and that the average from the group is 408 miles—or 400.8 miles.

A. Yes, sir.

Q. Now, notwithstanding the fact that the longest tariff route in Southern Illinois is 476 miles, and from Boonville it is only 460 miles, the average distance which is used from Boonville is about 50 or 60 miles higher than the average tariff route from Southern Illinois. What have you to say? What is the reason for that distance, if you know?

A. The difference in distance via the shortest tariff route, of course, means from the points in that group via the shortest route over which the traffic can move. The [fols. 1938-1939] distance via the longest tariff route, or

the longest routes over which the traffic can move. It is obvious that the longest distance over which the traffic can move is 76 miles shorter from the Boonville District than it is from the Southern Illinois District.

. . . . . .

[fol. 1940] By Mr. Cardy:

Q. Well, when did you go with the Coal Trade Bureau?
A. 1940.
Q. 1940?
A. July, 1940.

[fol. 1941] Q. Well, then, in your connection with the Milwaukee, did you have anything to do with the establishing of the rates from the Tecumseh Mine, or do you know the facts and circumstances there?

A. I had something to do with it, yes, as a member of the railroad committee that considers the rates from that mine; but while I know what happened in a general way, I don't know the details of it.

Mr. Cardy: All right, that is all.
Exam. Trezise: Mr. Marks?

By Mr. Marks:

Q. Mr. Scott, you made numerous references to so-called standard differentials between the Indiana and Illinois groups which you would like to have restored. I am to understand by that that the differentials that you are seeking are those that were in effect prior to 1930 before certain changes were made in the rates from Southern Illinois to Northern Illinois, is that correct?

A. Yes, sir.

Q. And by way of identifying those differentials, I believe you referred, on page 17 of your prepared testimony, to a so-called "Blue Book" as containing those differentials?

A. Yes, sir.

Q. Now, in answer to a question by Mr. Vesey, I understood you or your counsel to say that you were agreeable to having these former differentials restored, even though [fol. 1942] it might give Fulton County better differential under Southern Illinois than it now has; is that correct?

A. I said I had no objection, I am not involved in that

particular point of the adjustment between Fulton County on the one hand and Southern Illinois on the other to these destinations. He asked me if I had any objections to it. I could give none because I am not involved in it.

Q. Wouldn't you be involved if, by reason of the restoration of the former differentials between Fulton County and Southern Illinois, Fulton County might be brought closer to Northern Illinois than some of your Indiana mines and therefore affect your differentials between the Fulton County and Indiana to Northern Illinois?

Mr. Vesey: Now, maybe I have got a lapse of memory, but I don't recall ever having asked this witness any questions with respect to that. As a matter of fact, I haven't questioned the witness as yet. So if you are predicating a question on that, I appreciate the anticipation but I am afraid it is not the fact.

Exam. Trezise: Does it help you any, Mr. Marks?

Mr. Marks: No, I am merely trying to get the facts on the restoration of the former differential. Whether it helps or hurts Mr. Vesey, I am not particularly concerned; but I understood from his answer to Mr. Vesey that he was willing to accept the former differentials even though they might be—

Exam. Trezise: All right, Mr. Marks, go ahead.

[fol. 1943] By Exam. Trezise:

Q. If they did reduce the differential Fulton-Peoria as compared with Southern Illinois, would that affect the interest of the Indiana people?

A. Yes, sir, it would.

By Mr. Marks:

Q. In other words, in order to get the differential switch, you are willing to take the bitter along with the sweet?

A. No, I don't agree with that, Mr. Marks.

Q. Well, may I ask you this: Are you willing to have the differentials restored between Indiana and West Kentucky that were in effect, as shown by the Blue Book in 1925?

A. I want to point that out this way, that the differentials that were changed between Indiana and Western Kentucky since 1925 were done under authority of an order

of the Interstate Commerce Commission upon a full and complete record. That order is still outstanding.

The differentials that were disrupted in 1930 and 1932 between the Illinois groups on the one hand and the Indiana groups on the other were not disrupted by an order of the Interstate Commerce Commission but were disrupted by an order of the Illinois Commerce Commission reducing the rates from the Illinois groups to the Northern Illinois points; and we are asking for the restoration of those differentials that were disrupted at that time by order of the Illinois Commerce Commission in reducing the rates from the Illinois mines and giving no consideration, either by the Commission or the carriers, to the rates [fol. 1944] from Indiana.

Q. They were disrupted, though, by an order of the regulatory body?

A. Not by anybody that had any control over our rates; only an organization that had control over the rates within the State of Illinois.

Q. Well, aren't you interested in the differentials between Indiana and West Kentucky?

A. Very much so.

Q. Do you feel that the differentials between Indiana and Illinois that were in effect in 1925 are any more sacred than the differentials that were in effect between Indiana and West Kentucky at the same time?

A. Yes, I do. I have testified in this proceeding that to my knowledge transportation conditions were similar from Indiana mines and from Illinois mines. Now, also, from my knowledge, I don't believe that transportation conditions are the same between the Illinois mines and the Indiana mines on the one hand and the Western Kentucky on the other.

Mr. Marks: That is all.

Exam. Trezise: Any further questions?

Mr. Vesey: Yes.

Exam. Trezise: Mr. Vesey.

By Mr. Vesey:

Q. Mr. Scott, as I understand from your exhibits here, certain of the proposals of the carriers result in a change [fol. 1945] in differential at Beloit between the Fulton County operators on the one hand and certain Indiana

operators on the other; result in a change, is that right?

A. That is correct.

Q. Now, confining our examination to Beloit, I understand that the fundamental upon which you predicate your contention in this case is that the differentials growing out of the so-called Hardie Agreement, which went into effect in July 19, 1925, are differentials which should be recognized and preserved in any rate adjustment that may flow from this proceeding, is that right?

Mr. Stadell: I object to that, Mr. Examiner. The Commission will decide whether those differentials should be recognized and preserved.

Mr. Vesey: I just ask him to state his contention.

Mr. Stadell: Not the witness.

Mr. Vesey: I am just asking as to his contention in this proceeding.

Exam. Trezise: I think we will let him answer that if he can, if he has an opinion.

The Witness: My opinion and my testimony is that the differentials that existed at that time between the Illinois mines on the one hand and the Indiana mines on the other should be restored in this proceeding.

By Mr. Vesey:

Q. Now, I take it that opinion and that contention of [fol. 1946] yours is not just happenstance but that is the result of a thorough study on your part of those differentials, of the freight structure, the rate relationships, competitive conditions and all of the other factors which you have alluded to in your direct and cross-examination to date?

A. That is correct.

Q. And that is a considered opinion on your part in so far as the maintenance of those differentials are concerned?

A. Yes, sir.

Q. And that grows out also of a study and consideration of transportation conditions as between the two groups, is that right?

A. Transportation conditions that are of my knowledge, yes.

Q. Now, one of the differentials which was in effect at Beloit and which went into effect July 19, 1925, was a

differential of Fulton County; of Fulton-Peoria under Southern Illinois, isn't that correct?

A. Yes, sir.

Q. And that differential at that time was 79 cents per ton Fulton County under Southern Illinois?

A. I believe that is correct.

Q. Now, I take it that it is your considered judgment, as you just testified, that that is a differential which, in establishing of a just and reasonable rate structure, that should be recognized and given effect to at this time?

A. If it can be shown that the differential is proper, yes.

[fol. 1947] Q. And I understood that in making the direct statements that you made with respect to the bringing back of those differentials, you did consider all the factors that I mentioned, and that is your considered opinion from the stand at this time?

The Witness: I would like to have that question again, Miss Reporter, please.

(Question read.)

The Witness: I would like to know what is meant by "those differentials," Mr. Vesey.

By Mr. Vesey:

Q. I am talking about the Fulton-Peoria differential under Southern Illinois at Beloit.

A. I didn't give the study to the differentials Fulton County vs. Beloit—I mean Fulton County vs. Southern Illinois to Beloit as I did to the differentials of the Indiana mines and groups versus those from Illinois.

Q. Now, it was my understanding of your testimony, Mr. Scott, that you viewed the Illinois-Indiana adjustment as a whole; that you couldn't pick it apart, that you had to consider it as one whole adjustment, isn't that right?

A. That is correct.

Q. That being true, it also being true, as you just testified, the bases upon which you reached your judgment as to these differentials, I now ask you, is it or is it not your considered opinion that a just and reasonable adjustment, Fulton County with respect to Southern Illinois at Beloit, [fol. 1948] would be Fulton County 79 cents under Southern

Illinois predicated upon Blue Book adjustment of July 19, 1925?

A. The Blue Book adjustment of July 19, as published effective July 19, 1925, Mr. Vesey, carried with it a differential of 79 cents; that is true. Now, I have not given—in answer to your question, first, I would say, based on what was done at that time by the carriers and the Commission and the receivers that met and published a differential of 79 cents, I would say that was proper; but there must be other things, of course, taken into consideration.

In my contention here with the differentials Indiana vs. Illinois, I have not relied solely on the fact that that rate was published in July, 1925. There are many other things I have taken, I have given in my testimony and evidence.

Q. Let me put it to you this way, then: Do you have any reason to believe at this time that the relationship established on July 19, 1925, between Fulton County and Southern Illinois was in anywise unreasonable, improper, or that there is anything, in fact, wrong with it?

A. I have made no study and therefore I couldn't say I would have any reason to believe it was wrong, because I have made no study of it.

Q. Put it directly, then: So far as you know at this time, you, as a rate expert, have no criticism to make with respect to the reestablishment of that differential, have you?

[fol. 1949] A. I will offer no objection but I will not offer to support it, either.

Q. But you know of no objection as to why it shouldn't be reestablished?

A. What?

Q. You know of no reason why it should not be reestablished?

A. I say I haven't studied that, Mr. Vesey. I may if I study it but I haven't studied it.

Mr. Wilkinson: Just a minute.

Mr. Vesey: Just answer my question. Do you know—

Mr. Wilkinson: Your question is there and I object to it. The witness has said he has made no objection to it but he hasn't advocated it. He has expressed no opinion, either as an expert or non-expert as to the propriety of that particular differential. I don't think it is fair to press him any further.

Mr. Stadell: And he has said he has made no study of it, so how can he express an opinion on it?

Exam. Trezise: You are all agreed on that. How do you stand on this gentlemen's agreement here?

Off the record.

(Discussion outside the record.)

Exam. Trezise: All right, proceed.

By Mr. Vesey:

Q. Let's approach it from another angle. Mr. Scott, you were with the Milwaukee Railroad, were you not, in their rate department, when the change in the differential [fol. 1950] Fulton County over Southern Illinois took place?

A. Yes, I was.

Q. And you are familiar with the reasons incident to the reduction of that differential, aren't you?

A. Well, I was on the Committee that checked out the rates in compliance with the Commissions—in the first decision in the Beloit case, which was made in 1933.

Mr. Biaett: Excuse me just a minute.

By Mr. Biaett:

Q. Were you on the Committee which determined which rates would be checked out and which rates would be published, Mr. Scott?

A. No.

By Mr. Vesey:

Q. Well, I take it that you did study, Mr. Scott, the differential relationships of Indiana vs. Illinois, not only in the suspended and compared territory, but as shown by your map in that territory which lies to the north of the compared territory, so referred to in this proceeding?

A. Yes, sir.

Q. And I gathered from the statement which you made in answer to the first direct question asked you on page 8 of your direct testimony, that there were certain standard differentials which applied Indiana vs. Illinois, except where you came into your short-haul territory?

A. Yes, sir.

Q. Now, will you tell us, please, what happens to those [fol. 1951] so-called differentials or differences in rate as you move into your short-haul Indiana and—let's take Indiana territory first. Do they widen or do they decrease?

A. They do both.

Q. They do both?

A. Yes, sir.

Q. Now, take, for example Brazil-Clinton, let us say, against Linton-Sullivan. As you come from the north going down, generally speaking, what happens to those differentials?

A. Generally speaking, they remain constant ten cents Brazil-Clinton over Linton-Sullivan.

Mr. Wilkinson: Under; Brazil-Clinton under Linton-Sullivan.

The Witness: Under Linton-Sullivan, yes.

By Mr. McElroy:

Q. You are going South?

A. Yes. Under Linton-Sullivan, until you reach a certain point in the State; I don't know what that point is right now. And then those differentials, as I recall it, from the Brazil-Clinton and the Linton-Sullivan Group merge and the same rate applies from those two to districts such as Indianapolis.

By Mr. Vesey:

Q. That is getting East, isn't it? I am talking about directly North, coming from the North right down the two fields.

A. Well, the differential remains the same until it gets—I can't tell you the point, Mr. Vesey. I would have to pick [fol. 1952] it out and study it.

Q. Let's come down to Chicago, first. What is the differential relationship there?

A. Ten cents.

Q. How is that?

A. Ten cents.

Q. All right, now, and as you move South from Chicago. In coming right into your short-haul territory, what happens to your differential, Brazil-Clinton as against Linton-Sullivan?

A. You mean in Indiana?

Q. Yes.

A. Illinois is fixed by the Commission.

Q. I am asking you generally. I don't want to pin you down point by point unless we have to. I want you to tell us generally what happens to that differential.

A. I would say the differential remains, as I recollect it, sir, the differential remains ten cents——

Q. Don't you know, as a matter of fact, Mr. Scott, that your differentials in your short-haul territory, as you approach the origin groups, with slight variations, increase as your distance decreases? Don't you know that as a matter of fact?

A. I think you are wrong, Mr. Vesey. Now, I am willing to get the tariff out and tell you what they are, if you wish.

Q. Have you them with you?

A. No. I thought we did. We have everything else. But [fol. 1953] it is my recollection, Mr. Vesey——

Q. I don't want your recollection, now, unless you know, Mr. Scott. If you do know I want the answer but I don't want a guess. Now, do you know or don't you know?

Exam. Trezise: Well, not without looking at the tariff. That is what you said, didn't you?

The Witness: I think I would have to look at the tariff. You are getting down to specific points and I can't answer specifically.

By Mr. Vesey:

Q. Now, let me ask you, without regard to that but just asking you as a freight rate expert: Isn't it generally true in the construction of freight rates that as you approach the origin groups, that your differentials or differences increase as the distance decreases between any two comparative groups?

A. Yes, sir.

Q. And isn't that a fundamental principle in the construction of so-called just and reasonable rate schedules?

A. Yes, sir.

Q. And it is something that flows not only from a theoretical principle but it flows also from consideration of movements of the traffic, the point of view of rates which give effect to—I believe it is your Fourth Section, and that

you must not have a higher rate to a longer point than you do to a shorter point. In fact, it stems from a consider- [fol. 1954] ation of a proper rate structure, does it not, that principle?

A. Yes, I believe that is right.

Q. Now, you do have exceptions to it, do you not, either because of lack of movement or lack of interest at a particular point where a rate was established, and because of no complaint, so to speak, or no interest being shown, the rate remains; so consequently, as years pass, it gets out of its parity with your general situation. You have those situations?

A. Yes, not very often.

Q. But generally you stick to the fundamental principle, where you have got two competitive districts, both interested in maintaining their place in the sun, so to speak, one with the other?

A. Yes.

Q. Now, do you know of any reason why, if that be a fundamental principle, that principle shouldn't be applicable to the Northern Illinois groups, say, for example, Fulton-Peoria, in their relationship with Southern Illinois in short-haul territory?

A. That comes back, Mr. Vesey—if you don't mind, I will make an observation. That would come back to the fact as to what can or cannot be considered short-haul territory.

Q. Conceding that, Mr. Scott; I asked you, do you know of any reason why the fundamental principle shouldn't be applied?

A. No, sir, I do not.

Q. And you would apply that principle regardless of whether the chips fell on the Indiana side of the line or the [fol. 1955] Illinois side of the line, wouldn't you?

A. Well, there is no short-haul territory common between Fulton County and the Indiana groups; no common short-haul territory, I mean.

Q. I don't think you got my question. Strike that question and put it this way:

You advocate that principle in the construction of your own rates, certainly, don't you?

A. Yes, sir.

Q. And you are advocating that in the rates involved in this proceeding to Rockford and such points?

A. I haven't discussed that in this proceeding.

Q. That is the principle involved in that rate structure.

Mr. Wilkinson: That short-haul territory principle, as far as most of our competition is concerned, isn't involved in the rates to Rockford.

Mr. Vesey: Let's not have two witnesses. I am having enough trouble with one.

Mr. Wilkinson: I am making an observation. Your question includes a premise that isn't, as I say, a fact.

Exam. Trezise: All right, let the witness then answer as he would answer that. Give your answer to it.

Mr. Vesey: I think if we are going to have the annoyance we ought to have the amusement. I would suggest Charlie get up in his lap here, if they are both going to testify.

[fol. 1956] Exam. Trezise: Let him answer the question. Do you have the question in mind?

The Witness: I would like to have it again.

Exam. Trezise: Read the question.

(Question read.)

By Mr. Vesey:

Q. In other words, the question is this, Mr. Scott: That principle is involved, is it not, basically involved in your contention here with respect to rates to Rockford, Illinois, from the Indiana groups?

A. Short-haul territory; short-haul adjustments?

Q. No.

A. I don't understand your question.

Q. No, that the differential increases, should increase as the distance decreases.

A. No, for this reason, Mr. Vesey. Your question would go to the fact that it is an assumption that as distance decreases, differentials should change, and that is not true. You must reach a point before that could be applied.

Q. In other words, you must group them, is that what you are talking about? Block them out, so to speak?

A. No, you must give consideration to the difference in distance. It is not the mere fact the distance changes.

Q. I don't mean as to every mile, but I am talking about the principle, generally speaking.

A. I can't agree with that, sir, unless we have an under-[fol. 1957] standing. Now, from Illinois and Indiana to

Rockford, I can't concede that as the distance decreases, the differential should change or should narrow or the mines in some Illinois group nearby the destination should be considered short-haul territory.

Q. Would you advocate the converse of that principle, for example, on your Indiana rates with relation to Illinois rates in the Northern Illinois destinations, and that is that a differential would be satisfactory to you in that area which was less than your differential into, let us say, Northern Wisconsin?

A. No.

Q. You wouldn't advocate that?

A. No.

Q. Why wouldn't you?

A. Why would I? I don't know of any reason why I should. I will put it that way. There is no reason why I should do that.

Q. Don't you have that, as a matter of fact?

A. Not if I understood your question rightly.

I would like to make an observation here, Mr. Vesey, if you don't mind, in order to help this record.

Q. Surely.

A. If you would cut your questions down a little bit so that I don't lose the first part by the time I get down to the end of them, I think I would answer them a little better.

Q. All right, sir. Turn to Exhibit No. 50, will you, please? [fol. 1958] A. Is that a map?

Q. Yes.

A. Yes, sir.

Q. Now, just in the interests of time, that map does not show Indiana, does it? It lies to the East of Illinois?

A. Does not show what?

Q. It doesn't show——.

Exam. Trezise: Indiana, he said.

The Witness: It doesn't show the State of Indiana, no.

Mr. Vesey: I beg your pardon, it is Exhibit 48. I am sorry.

By Mr. Vesey:

Q. Do you have it before you?

A. Yes, sir.

Q. Now, as you start out in South Dakota, you have a differential there of Brazil-Clinton, I believe it is, of a dime under Southern Illinois; right?

A. Correct.

Q. And then as you come toward the Indiana origin groups, the next block of figures as shown in your exhibit is in Wisconsin, where you have 30 cents under Southern Illinois for the Brazil-Clinton Group, is that right?

A. That is correct.

Q. So as we go, then, from South Dakota to Wisconsin, as the distance has decreased, your differential has increased, has it not?

[fol. 1959] A. That is right.

Q. And as you moved over, then, to the West Bank Lake Michigan dock territory, that differential became 35 cents under Southern Illinois, did it not?

A. Yes, sir.

Q. And then again the principle was adhered to, is that right?

A. Yes, that is right.

Q. Then as you got down nearer to Indiana, you come down to the Chicago Switching District, and there Brazil-Clinton is 40 cents under Southern Illinois, isn't that correct?

A. That is right.

Q. There again the principle is adhered to, is it not?

A. Yes, sir.

Q. And then as you move from the Chicago Switching District down through Gary, which is not shown on this map, into what you then term short-haul, isn't it a fact that Brazil-Clinton's differential under Southern Illinois increases as that distance decreases, generally speaking, in that territory?

A. Mr. Vesey, by no stretch of the imagination could Gary, Indiana, be called a short-haul destination.

Q. I am not talking about Gary, but I am talking about that territory coming down into there.

A. No, sir.

Q. "No," is that your answer, that you didn't know because you hadn't checked it or——

[fol. 1960] A. No, I tried to explain to you, Mr. Vesey, I wouldn't consider Gary or Schneider short-haul territory.

Q. I am not talking about that.

A. You mentioned Gary.

Q. I am asking you whether, as you come down through that territory to your origin group, the principle isn't adhered to?

Mr. Kaier: Gary appears to be in the group, as shown by the map, in the Chicago zone.

Mr. Vesey: Unfortunately I mentioned Gary as a name. I am not using it as a short-haul point. I am trying to describe the territory through which we pass.

By Exam. Trezise:

Q. Do you understand his question?

A. I understand his question.

Exam. Trezise: Then let him answer.

Mr. Vesey: I would like to have an answer.

The Witness: We come a considerable distance south in the State of Indiana before there is a change in differentials.

By Mr. Vesey:

Q. Now, when the differential changes, doesn't the differential—say, for example, Brazil-Clinton under Southern Illinois—increase as that distance has decreased, generally speaking?

A. There is no relationship or no differential recognized between——

Q. Or the difference, then, in the rates?

A. The different changes, yes. I doubt if there are any rates to a good many of those points from Southern Illinois.

[fol. 1961] Mr. Vesey, if I may, please, when you get into Indiana, the central part of Indiana, there is no relationship recognized or established, whatever you want to call it, between the rates from Brazil-Clinton and Southern Illinois, in my opinion.

By Mr. Vesey:

Q. I didn't get the last part of that.

A. I say there is no relationship between the rates from Southern Illinois and Brazil-Clinton, Indiana, Group, to the destinations in the so-called Indiana short-haul territory.

Q. By that you mean there is no differential relationship, is that what you mean?

A. Yes, sir.

Q. There are points in there where you do have rates, though, from Southern Illinois, are there not?

A. Yes, sir.

Q. . . to those points. Generally speaking, has not the difference in the rates then, short-haul Brazil-Clinton under Southern Illinois, increased above 40 cents?

A. Oh, decidedly.

Q. That is the point I am trying to get to. Now, they decidedly increase. I don't care how much they have increased; all I am interested in is the principle. They have increased?

A. The differences have increased.

Q. And the distance has decreased?

A. Definitely.

Q. Now, then, do you know of any reason why, taking Southern Illinois as a base group, Fulton-Peoria, now, as the [fol. 1962] compared group instead of Brazil-Clinton, those same principles which you have just been testifying to should not appertain to those two points?

A. In the event it is considered short-haul territory——

Q. I say, do you know of any reason why those principles should not appertain? That is the question.

A. Yes.

Q. What is that principle? What is that reason?

A. The reason is this, because I do not know whether it can be considered to Rockford and Freeport, because of the distances involved, that it is short-haul territory.

Q. Now will you answer my question? You know that is not an answer to my question, don't you? Don't you know?

A. I believe it is.

Mr. Vesey: Read the question.

(Question read as follows: "Now, then, do you know of any reason why, taking Southern Illinois as a base group, Fulton-Peoria, now, as the compared group instead of Brazil-Clinton, those same principles which you have just been testifying to should not appertain to those two points?")

Mr. Vesey: Those two groups.

The Witness: My answer is yes.

By Mr. Vesey:

Q. What is the answer? You say you know why the principles should not apply, Fulton-Peoria, as against Southern Illinois, as they have applied, and as you have testified, Brazil-Clinton as against Southern Illinois. Now, I want

[fol. 1963] to know why those principles shouldn't apply over in the case of Fulton-Peoria. That is my question.

A. Are you trying, Mr. Vesey, so that I may answer your question the way you want it—I am trying to, very much, to give you a proper answer. Are you basing that question on the assumption that the rates from Fulton County or the distance from Fulton County mines to Rockford and Freeport entitle it to consideration as a short-haul territory?

Q. Certainly not. I am asking you only as to the principle. I am not referring to Rockford, Freeport, or any other place. I am asking you if you know any reason why the principles in freight rate making which you have just testified to, Brazil-Clinton as against Southern Illinois, starting at your distant points, coming down to your short-haul territory, should not also be applied in making a freight rate structure for Fulton County as against that same base group, Southern Illinois? Now, do you know of any reason why they shouldn't apply?

A. First of all, you referred to my comparisons from Indiana to this Northwest territory. The distances under consideration from Indiana to this Northwest territory are considerably greater, of course, than the distances from Chicago or Southern Illinois to the Northern Illinois points. It is a vast area up there.

Take the points where the ten-cent differential Brazil-Clinton under Southern Illinois applies and the area where the differential Brazil-Clinton under Southern Illinois of 20 [fol. 1964] cents applies. There are no distances into there from Southern Illinois on the one hand or the Indiana groups on the other comparable with the distances from the Fulton County group and the Southern Illinois group into this Northern Illinois territory; and I would say, Mr. Vesey, the application of the principle for these long distances applied to the short distances to which you refer might have to be tempered a bit.

Q. Well, granted, let us say all that may be true: Now, will you answer my question? Do you know why the principles should not be applied as to one group the same as they are applied to the other?

A. I just gave it.

Q. That is your best answer to that question?

A. Yes, sir.

Q. Are we to take it from that answer then, Mr. Scott, that you wouldn't apply the same principles in making

freight rates from the Fulton-Peoria group as against a base group as you would Indiana against the base?

A. Indiana against the base group?

Q. Yes, you wouldn't apply the same principles in freight rate making?

A. They are applied on a differential basis, Mr. Vesey.

Q. I am asking you——

Exam. Trezise: Now, Mr. Vesey, I think Mr. Scott doesn't know what you mean. I think that Mr. Vesey is contrasting the method of making rates from Indiana, base group [fol. 1965] and differential group, with the method of making rates in Illinois, base group and the differential group.

The Witness: I understand that, Mr. Examiner.

Exam. Trezise: To short-haul territory. Now, if you apply it over in Indiana, he says would you apply it over in Illinois? That was my thought, if I got his idea. Maybe I didn't get it.

Mr. Vesey: Just as simple as one, two, three.

By Exam. Trezise:

Q. Would you apply the same principle in Illinois as you say applies in Indiana?

A. To short-haul territory, yes.

By Mr. Vesey:

Q. Why wouldn't you do the same with the other territory?

Mr. Wilkinson: It is not a question of any particular fact, rate, distance, mileage, or anything else, Mr. Scott. Mr. Vesey is asking you, would you make rates on the same principle and theory of rate-making from points and origins in Illinois as you did in Indiana.

The Witness: Yes, sir.

Mr. Wilkinson: That is all he is asking.

The Witness: That is a very simple question and I can answer that.

Exam. Trezise: Now, if you can stop now, we will give the reporter a rest here.

(Recess taken.)

Exam. Trezise: All right, gentlemen, Mr. Vesey, continue.

[fol. 1966] By Mr. Vesey:

Q. Now, referring again, Mr. Scott, to your Exhibit 48, and referring specifically to the territory enclosed within heavy black lines, in which appear the designations 30, 20, 13, and 10. That territory embraces what is referred to in this proceeding as the suspended territory in Northern Illinois, does it not?

A. In a general way, yes, sir.

Q. And that suspended territory, for rough outline purposes, is the territory north of that black line, south of the border between Illinois and Wisconsin, east of the Mississippi River, and west of the black line on the exhibit?

A. That is the suspended destination territory in Northern Illinois, yes.

Q. Now, in that territory, under the proposed rates, thinking only of Indiana vs. Illinois we have differentials resulting which are less than those differentials generally shown in that territory, do we not?

A. Yes, sir.

Q. And as to those differentials which are less than the differentials shown on the map, Indiana, in this proceeding, is asking that they be increased so that as, for example, you have Brazil-Clinton under Southern Illinois 30 cents?

A. That is correct.

Q. And by virtue of that request, predicated, as you have stated, upon a Blue Book relationship in 1925, you are, in effect, asking, are you not, for the restoration of differen-
[fol. 1967] tials, Indiana vs. Illinois in that suspended territory equal to the differentials which apply Indiana vs. Illinois to the north of 30, 20, 13 and 10?

A. Yes, Mr. Vesey. The Blue Book differential was one of the reasons we are giving for the restoration of our differentials. There are other reasons and other proofs in the testimony in evidence.

Q. But you are asking for differentials which would now bring those differentials into a compatable relationship with the 20, 30, 13, and 10, aren't you?

A. Yes, sir.

Q. In other words, viewing it from the point of view of principle alone, Indiana in this proceeding is asking for recognition of the fundamental that the differentials should increase as the distance increases, or in certain block territory they should remain the same, but in no event be lower?

A. Yes, sir.

Q. And that has been fundamental with Indiana throughout almost all its rate history, in so far as freight rate cases are concerned, isn't it?

A. We have never, Mr. Vesey, in Indiana, contended that distance alone should govern that. I would like to make myself clear on that point, in answering your question.

Q. No, I am not talking about distance. I say those fundamental principles have been inherent in Indiana's contentions for years on end, have they not?

[fol. 1968] That is one of the fundamental principles we have contended.

Q. I am not talking about all of them, but it is one fundamental principle?

A. Yes, sir.

Q. it has gone all through Indiana's contentions, through its rate history, so to speak?

A. I would say so, yes.

Q. Or to state it in another way, Mr. Scott, when you request the restoration of differentials which you have referred to, Indiana vs. Illinois, you are predicating that request, are you not, on something else besides age?

A. Very definitely.

Q. In other words, the fact that it was there in the past, it is old, hasn't anything to do with your request particularly, has it?

A. I think the fact that it is of long standing has everything to do with it. That is one of the factors. I am predicating it on other factors than that, if I make myself clear.

Q. Just to follow your line of thinking out, when you make that statement, I assume that you give to that a presumption that since it has been of long standing, it must therefore be right.

A. I do say that anything of long standing must be presumed to be right until proved otherwise.

Q. Until proved otherwise?

Now, then, may we take that same line of thinking and [fol. 1969] apply that, again, to Fulton County against Southern Illinois, and we start out, as I understand your testimony, with the differential at Beloit, Fulton-Peoria, Southern Illinois, 79 cents on July 19, 1925, is that right?

A. That is right.

Q. And that differential relationship continued for a period of years, did it not?

A. Yes, sir.

Q. And then that differential relationship was disrupted along in about 1933, wasn't it?

A. That is correct.

Q. And that disruption occurred not because of any order by either Illinois Commerce Commission or Interstate Commerce Commission, isn't that true?

A. That is true.

Q. In other words, it was a disruption that occurred by virtue of published tariffs by railroads of their own volition, the disruption?

A. Yes, sir.

Q. Then I want to ask you this question: Have you any reason to believe that that relationship, Fulton-Peoria; Southern Illinois and Beloit is unreasonable?

A. I know of no reason why it is unreasonable.

Q. In other words, as far as you know, that 79-cent relationship is a minimum reasonable differential, Fulton-Peoria [fol. 1970] under Southern Illinois?

A. Well, I have stated, Mr. Vesey, I have made no study of it, and you are asking me to make a positive assumption it is a reasonable one. I have stated I don't know of any reason it is unreasonable, but I can't state it is definitely reasonable because I don't know.

Q. I am not asking you to make a statement based on study of a fact where you have reached a conclusion. I am saying, as far as you know, you have no reason to believe that that 79-cent differential was an unreasonable minimum differential under Southern Illinois, have you?

A. No, sir.

Q. And as far as you know, it may very well be a reasonable minimum differential?

A. As far as I know it may be.

Q. And at least we can go one step further, can we not, Mr. Scott, and have from you the direct answer—well, strike that question.

Now, will you refer to page 8 of your direct testimony?

A. Yes, sir.

Q. The first sentence in the second full paragraph of your first answer on page 8 reads as follows: "Except to short-haul destinations, the rates from the four major Indiana groups are differentially related." Will you please tell me what you meant by the term "short-haul destinations."

[fol. 1971] A. Yes, sir. In the State of Indiana there are differentials, established differentials to the Northern part of the State. Those differentials, are established differentials and continue the same, going south, until they reach a certain given point in the same—probably the north central part of the State. From there on, the differentials or differences vary.

As you proceed south, Brazil-Clinton no longer has the lowest rate. It may be on a parity with the rate from Linton-Sullivan. As you proceed further south and get down to our Boonville or Princeton-Ayrshire groups, those groups come in with the lowest rate. Those were short-haul destination territory, which rates were arrived at at a conference following a 13th Section proceeding which was dismissed, but during the pendency of that proceeding those short-haul area rates were agreed upon by the operators in Indiana, by the consumers of coal in Indiana, by the railroads serving Indiana, by a member of the Interstate Commerce Commission, as I recall it, or at least he participated in it to some extent, and by the Indiana Commission.

Now, that short-haul destination territory was agreed upon at that conference and the standard differentials, as we recognize them, for the Northern part of the State do not apply to that territory.

Q. Now, you said you reached a point. Can you tell me, roughly, in terms of miles, how far from your origin groups that point is when you break on differentially related [fol. 1972] territory to short-haul territory?

A. Oh, somewhere between 100 or 125; about 100 to 125 miles.

Q. 100 to 125 miles from the origin group; I mean just generally speaking. In other words, when you come down to within, let us say, 100 to 125 miles of an origin group, then you get into this thing we call short-haul territory?

A. Yes, sir.

Q. Now, as between any two groups—let's call them A and B so as not to refer to specific ones here. If you have A and B as compared origin groups, and by "compared" I mean we are going to relate them now to a base group. If 125 miles is a proper beginning point, we will say, for group A when related to the base, would not 125 miles be a proper breaking point for group B as against the base?

A. It may be if there were no other groups that would come into the picture there which might influence a change.

Q. You mean other things being constant, that would be true?

A. That would be true.

Q. Now, let's move over into Illinois. You know, do you not, that the so-called Northern Illinois Field lies to the east of the Fulton-Peoria Field?

A. Yes, sir.

Q. And you are familiar with transportation conditions, are you not? Let's say Fulton-Peoria as against Northern Illinois into the suspended territory.

A. Only in a very general way.

[fol. 1973] Q. Only in a general way? You are familiar with your Indiana transportation conditions as against Northern Illinois, are you not?

A. Yes, sir. I say in a general way. I am no expert. I want to make that clear.

Q. Aren't you familiar with Indiana as against Fulton-Peoria transportation conditions?

A. Yes, sir.

Q. And the fact of the matter is, because you are familiar with that, that you have recommended here the restoration of, among other things, the 79-cent differential Fulton-Peoria under Southern Illinois which grew out of this Blue Book adjustment?

Mr. Stadell: I object to that, the assumption in the question that he has recommended anything. He said he didn't know anything about it; he made no study of the differential.

Mr. Vesey: Oh, Mr. Stadell, the witness in the beginning said, "We want the restorations of the Blue Book differentials of July 19, 1925."

Mr. Stadell: He didn't say anything about Fulton County.

Exam. Trezise: Can't you just ask him the question?

Mr. Vesey: I asked him the question.

By Mr. Vesey:

Q. You recommended that, didn't you?

Exam. Trezise: There was an objection to your statement there. Now, ask the witness if those were his statements.

By Mr. Vesey:

Q. I said, did you not, in your direct testimony, recom-[fol. 1974] mend the restoration of the Blue Book differentials of July 19, 1925, of all these groups?

A. No, I spoke of Indiana groups vs. Southern Illinois.

Q. Then Fulton-Peoria was not one of your locations?

A. Not versus Southern Illinois. I have not testified with respect to the differential, Fulton County group vs. the Southern Illinois group.

Q. That, I believe you said, was because you didn't study it?

A. That is right.

Q. Turn to your Exhibit 42.

A. Yes, sir.

Q. I direct your attention specifically to page 1, to the Fulton County origin group. I note that you show average distance via the M. & St. L. and as a route Peoria-Chicago & North Western, a distance of 264.2 miles, is that right?

A. Yes, sir.

Q. The rate of $1.80?

A. Yes, sir.

Q. Did you know at the time you prepared this exhibit, Mr. Scott, that there was a route via the M. & St. L., Peoria-Chicago, Rock Island & Pacific-Depue and the Chicago, Milwaukee, St. Paul & Pacific?

A. I did not know it then or I don't know it now.

Q. You don't know that now?

A. No, sir.

Q. You mean you haven't checked the tariffs to ascertain that?

[fol. 1975] A. I have checked the tariffs but I didn't notice that route. I am not saying it isn't in there, Mr. Vesey.

Q. Would you make that check of that tariff and ascertain whether or not there is such a route and ascertain further whether or not that route shows six origin points, and a third fact, whether or not that shows as an average distance 163.4 miles?

A. If I can secure a copy of the tariff during this hearing, I will do that.

Q. Do you have the Carriers' Exhibit 3 there?

A. Yes, sir.

Q. Would you get that and turn to Section 5, page 37?

A. Exhibit 3——

Q. Exhibit 3, Section 5.

A. Section 5?

Q. Page 37.

A. Page 37. I have it, yes, sir.

Q. Doesn't that show the route to which I have just referred?

A. Yes, sir, but I would appreciate calling—I would like, rather, to call your attention to the circle reference mark on that route at the bottom. It carries with it a circle reference mark 1, encircled. At the bottom, that circle reference mark says, "Effective March 25, 1943." To the best of my knowledge, this proceeding was being heard during that time and therefore this route became effective after this proceeding started; and when my exhibits were [fol. 1976] made up, there was no such route in the tariff.

Q. Wasn't that one of the first exhibits introduced in this proceeding?

A. Their exhibits, I believe, Mr. Vesey, were distributed in the early part of this year, I believe—I may be wrong but I think so—and I am very sure, I am positive that when their exhibits were distributed, that route was not in the tariff as a published tariff route.

Q. It is in effect today, isn't it?

A. That is right.

Q. And on that route, instead of having 164.2 miles, you have 163.4 miles?

A. Yes, if there is such a route in the tariff, and I presume there is.

I would like to point out further, Mr. Vesey, so there will be no misunderstanding why that wasn't in my exhibit, my exhibits were prepared last fall for a hearing originally scheduled during the month of November, 1942.

Q. By the way, in view of that early preparation, I assume you had lots of time to study distances and rates and the like during the interim from October on through to March 23rd, when the hearing began?

A. In this particular proceeding?

Q. In this proceeding.

A. Yes.

Q. Did you make any studies of rates and distances from [fol. 1977] the several origin groups in Illinois to the destinations determined upon, both as suspended and the compared at the two hearings?

A. There were no destinations agreed upon at the pre-hearing conference, Mr. Vesey.

Q. Well, generally; did you make any studies?

A. Yes, sir.

Q. Did those studies differ from the studies which you have introduced in this proceeding in their results and, particularly, one, with respect to distances on a composite basis and short-tariff routes, shortest tariff routes, or, two, your levels of comparing rates, Indiana vs. Illinois?

A. No, sir.

Q. They did not?

A. No, sir.

Q. Do you have the results of those studies with you?

A. I have made no other study but one study and came to one conclusion. I don't know—my conclusions are in my exhibits, from the studies I made.

Q. I thought you said you made some studies from the several origin groups to the destinations in compared territory and the suspended territory shown by the carriers.

A. Oh, no, sir. I beg your pardon. I thought you were talking about only to the suspended territory. I have made no study as to the relationship of the rates from the Illinois [fol. 1978] groups to the compared territory.

Q. As to the suspended territory, did you make studies from the origin groups to the destination points which the carriers have referred to as representative of the suspended territory?

A. Yes, sir.

Q. Now, where are those studies?

A. They are contained in my Exhibit Nos. 73 and 74.

Q. Your Exhibits 73 and 74?

A. Yes, sir.

Q. In other words, for example, under column 4 of 73, the total distances there are the distances from the origin groups to the destination points used by the carriers in the suspended territory.

A. I want to see if I follow you right, sir.

Q. Yes.

A. These are my own computations from their Exhibits 3 and 4.

Q. All right, I want to just follow that for a moment. Take column 4, for example. Aren't the figures shown therein taken from the Carriers' Exhibit No. 11?

A. The figures that go to make up those figures are taken from Carriers' Exhibits Nos. 3 and 4.

Q. Shown in their composite Exhibit No. 11?

A. Yes, they have an Exhibit No. 11, based on their Exhibits 3 and 4.

Q. Now, do you have Exhibit 11 before you?

[fol. 1979] A. No. I can get it.

Q. Will you keep Exhibit 73 and Exhibit 11 before you?

A. Yes, sir. I have it, Mr. Vesey.

Q. Now, I wish you would help straighten me out a little bit on these distances. Take the first one under column 4. Carriers' Exhibit 11 shows 1574.7, and this shows 1574.7, does it not?

Mr. Wilkinson: Exhibit 11 he is referring to.

The Witness: Yes, their final exhibit, yes. That is correct. Both exhibits show the same figure.

By Mr. Vesey:

Q. And the same is true with respect to Victoria, comparing the two exhibits, is it not?

A. That is correct.

Q. And the same is true with respect to Atkinson?

A. That is correct.

Q. When you get down to Peoria, there is a variance, is there not?

A. Yes, sir.

Q. What is that variance due to?

A. I believe as we checked it, there was probably a slight error, in our opinion, in the carriers' computation.

Q. Now, does that flow from the fact that the carriers had 31 origins and you have 33?

A. No, I have used the origins shown—the number of origins and the distances shown in the Carriers' Exhibits 3 and 4.

Q. The carriers show 31 origins and you show 33.

[fol. 1980] A. I appreciate that.

Q. Can you explain that to us?

A. I would have to check back Exhibits 3 and 4 to see just where the error occurred. I may have checked it at the time, Mr. Vesey, but if I did I can't recall.

Q. The difference is some 300 miles difference as betwixt the two?

A. How many?

Q. About 300, isn't it?

A. Yes.

Q. Now, at Rushville you show exactly the same figures, do you not, to the tenth of a mile?

A. Yes, sir.

Q. The same thing is true of Wilmington?

A. Yes.

Q. The same thing is true of Fulton County?

A. Yes, sir.

Q. The same thing is true of Springfield?

A. Yes, sir.

Q. Now, just referring back again for the moment to Fulton County, you show 297 origins and the carriers show 285.

A. That is correct.

Q. Now, do you know whether the error is yours or in the carriers?

A. I can't remember, Mr. Vesey. I did know at one time. We have checked these back but it is quite some time.

Mr. Wilkinson: Just a minute. He asked you, was the [fol. 1981] error yours or the carriers.

By Mr. Wilkinson:

Q. Did you check it back to find out where there was error? In your opinion, where is the error?

A. In my opinion the error is the carriers' figures.

By Mr. Vesey:

Q. Now, all the rest of the figures on column 4 in that Exhibit 73, from lines 9 and 17, are different from the figures in the carriers' exhibits, are they not?

A. Yes, sir.

Q. Now, do you know, or in your opinion, is the error in your exhibit or in the carriers' exhibit?

A. I believe it is in the carriers' exhibits. We were very, very careful in computing our figures because we knew there was a difference.

Q. So that in your opinion Exhibit No. 11 is an erroneous exhibit?

A. Yes, sir.

Exam. Trezise: Can you stop there or are you still working on that exhibit?

Mr. Vesey: I am still working on it.

Exam. Trezise: We would like to adjourn about 12:15.

Mr. Vesey: I would like to just finish up, if I may, here.
Exam. Trezise: All right.
Mr. Vesey: It will only take a few minutes.
Exam. Trezise: Proceed.

By Mr. Vesey:

Q. Now, look at Exhibit 73 here; then when it comes to the [fol. 1982] question of rates, in computing the average, you show, do you not, a weighted average rate, both present and proposed?

A. Yes, sir. Not a weighted average.

Q. I meant distance. You used a weighted average for your averages on your distances?

A. I used the average distance by all the routes shown in the tariff.

Q. But the figure you got is a weighted average figure, is it not?

A. No, it is not.

Q. You mean it is a simple mathematical average?

A. Maybe we have a different opinion of what a weighted average is, Mr. Vesey.

By Exam. Trezise:

Q. You didn't use the tonnage?

A. No, sir.

By Mr. Vesey:

Q. I don't mean tonnage, but I mean as far as the distances are concerned. In other words, you weighted each origin point?

A. No, sir.

Q. You do not? You weighted each route, did you?

A. I did nothing. I used no weighted averages of any kind in making the computations.

Q. Let's take the figure 276 that appears in column 5. Tell me, how did you get that figure?

[fol. 1983] A. I divided the total distance shown under column 4 by the total number of origin points shown under column 3. The result was 260.0 miles.

Q. For example, Southern Illinois shows 882 origins there, doesn't it?

A. Yes, sir.

Q. For example, Alpha shows 12 origins.

A. Yes, sir.

Q. So that the net result of the average that you get is a weighted average, and by that I mean you give effect to each origin, do you not?

A. Yes, sir.

Q. So it really is a weighted average?

A. No, sir.

Q. It isn't?

A. No, sir. My idea, Mr. Vesey--let's get it—my idea of a weighted average is an average arrived at by the use of routes over which the tonnage moves.

Q. How would you describe the 276? Is it a weighted average, a simple average, or what is it?

A. It is an average distance from the mines—from the various groups shown here in Illinois, for example, under panel 1, of the short tariff route distances to the representative destinations used by the carriers in their Exhibits 3 and 4.

Q. And that gives full weight to the number of origins in [fol. 1984] Southern Illinois?

A. Oh, yes, that gives full weight to the number of origins.

Q. To each one of them. In other words, by that kind of an average you don't give as much weight to the origin, let us say, of Alpha, as you do to Southern Illinois as a group?

A. Well, Alpha is one group. It is a group and it is given as much weight in there as Southern Illinois is. Alpha is a group in and of itself, if you want to so call it.

Q. Don't you give—for example, Alpha is considered 12 times and Southern Illinois is considered 882?

A. That is right. I have used every origin in the Alpha group and every origin in the Southern Illinois group.

Q. But as group against group you are not giving them the same weight, are you?

A. Proportionately, yes. You wouldn't want me to inflate the Alpha and call it 882, would you?

By Exam. Trezise:

Q. Did you do anything different from what has been done in all these cases in figuring out the average distance?

A. No, sir.

By Mr. McElroy:

Q. Haven't you previously testified just how you computed these mileages?

A. Yes, sir.

Q. Several times?

A. Yes, sir.

[fol. 1985] Mr. Vesey: I didn't recall that.

The Witness: It is obvious on the face of it, Mr. Vesey. If there is any question about it, I would be glad to try to explain it.

By Mr. Vesey;

Q. All right, let's go over to column 16: How did you get the average of 174 which is shown down there for the Illinois groups?

A. It is based on each and every rate, different rate shown by the carriers in their exhibits. In other words, from Alpha to the 12 representative points we took the 12 rates. In other words, if there were two rates, Northern Illinois, for example there were more than 12—one rate from that group to the destinations, and we just took the total number of different rates to arrive at an average rate.

Q. So that when it came to Alpha, in computing that average, you used Alpha 12 times?

A. Yes, sir.

Q. The same as you did in computing distance?

A. Yes, sir.

Q. But when you got down to Southern Illinois, for example, you used Southern Illinois 13 times in computing the rate but you used Southern Illinois 882 times in computing the distance, is that correct?

A. That is correct.

Q. Now, if you had computed both rate and distance by the same number of origins there, I asked you, would you [fol. 1986] not have had a substantially different figure than the 174?

A. I believe so.

Q. Now, I submit to you that the figure you would have had would have been $1.95, and I will ask you to——

A. No, that is not the figure I would have had, I don't believe.

Q. Did you compute the figure?

A. Yes. Would you give me one moment?

Q. When did you compute it?

A. Yesterday. Last night, in fact.

Q. All right. May I have that, please?

A. Surely. I have the figures there and I neglected to take them with me.

Exam. Trezise: Let's compute that at 2:00 o'clock.

Mr. Dugan: Mr. Examiner, could I ask a few questions right now? I wanted to ask the witness two questions now.

Mr. Vesey: I object to that because I would like to finish up this cross-examination first, if you don't mind. I am sorry to have to do it, but I would like a little continuity at this stage.

Exam. Trezise: We will resume at 2:00 o'clock.

(At 12:20 o'clock p. m., recess taken until 2:00 o'clock p. m.)

Afternoon-Session

2:00 o'clock p. m.

The hearing was resumed pursuant to recess.

[fol. 1987] Exam. Trezise: All right, may we proceed?

HAROLD V. SCOTT, resumed.

Cross-examination (Continued).

By Mr. Vesey:

Q. Referring now, Mr. Scott, to column 10 of Exhibit 73, to the figure 174 shown in the third bracket from the bottom under column 10, you said that you had computed what that figure would be using the same method as was used in determining the distances. Now, what is that figure?

A. I have used that—refigured that in the same method as the carriers used in figuring that Exhibit No. 11 on rates and that would, that method as used by the carriers would result in a figure of 192.

Q. Now, that figure results from treating your rates in exactly the same way that you treated distances in getting 276?

A. In using the same formula as used in the distances.

Q. Yes. Using the same formula, you get 192?

A. Although the distance—the formula I used in the distances could not be used in arriving——

Q. Just a minute, Mr. Scott; you just answer my questions and we will save these long questions you are talking about. The formula is the same. That is the question.

A. Yes.

Q. Now, then, using the same formula, distances versus rates, what would the figure be under column 13 where you [fol. 1988] now show 61; what would the figure be?

A. 68.

Q. That would be 68?

A. Yes, sir.

Q. Now, going down to Indiana and taking column 10 and computing that rate under the same formula, would you not have the figure 206 instead of 207?

A. It is approximately the same. I haven't got the exact figure but it is approximately those figures. I didn't re-figure them, Mr. Vesey, because I knew they were approximately the same.

Q. Would you check to ascertain whether or not the figure appearing under column 13, as shown in your Exhibit 73, for the Indiana groups as 68——

A. It would be approximately——

Q. —is correct, or whether or not the correct figure there is 66.5? I won't ask you to figure it out now but I want you to figure it out sometime during the course of it and tell me whether or not that is not true.

A. You say would I?

Q. Yes, I mean sometime——

Mr. Wilkinson: Between now and Monday.

The Witness: Yes.

By Mr. Vesey:

Q. Now, then, in doing that, will you make your computation so as to include in Indiana the Evansville group, which is not included on Exhibit 73, and include the Evansville groups in your Indiana groups, and then give us the figure [fol. 1989] under column 13.

A. If I have time to do that. That is quite an order.

Q. Well, it is just adding Evansville to the Indiana groups.

A. That is all it is, but to get the figure to add is quite an order.

Q. Now, as I understand, Mr. Scott, it is your contention and the contention of Indiana that the rates from Illinois

are unjust and unreasonable in relationship to Indiana, which conclusion is predicated upon your determination of rate levels Indiana vs. Illinois, is that right?

A. That is correct.

Q. And since that is your fundamental basis, I want to ask you this question: Should you, upon a reconsideration of your figures here determine that the rate levels were the same, Indiana vs. Illinois, would it then be your position that the rates from Illinois as a whole against Indiana as a whole were not unjust and unreasonable?

A. You ask me for these figures, Mr. Vesey. I am not contending that that is the proper way to measure the rates between Illinois and Indiana.

Q. I didn't ask you that. I said if you should, on redetermination, find out the rate levels are the same, would you then change your position and concede they were not unjust and unreasonable as related to Indiana?

A. No, for this reason. I am not saying whether I would [fol. 1990] or would not. It is my opinion the method I have used in figuring my Exhibit 73 is proper and the rate levels from Indiana are higher than those from Illinois.

Q. Now, getting away from——

A. Wait a minute, I haven't answered your question.

Q. I am sorry.

A. But I do not contend that that is the one and only reason for asking the Commission to reestablish our differentials as they previously existed prior to the 1930-1932 adjustment.

Q. All right. Now, diverging from that just for a moment, I believe you testified that the transportation conditions Illinois vs. Indiana in the suspended territory were substantially similar?

A. That is right.

Q. Now, Mr. Scott, that being true, what other factor other than distance should the Interstate Commerce Commission consider, in your opinion, in determining rate relationships Indiana vs. Illinois?

A. Well, I think that one of the most important factors to take into consideration in establishing rates or differentals such as involved here is the competitive conditions between the various origin groups, and further it is important that the consumers at the various destinations be free to have different sources of supply and not one particular group or

two or three groups or one State. I think those are important.

[fol. 1991] I think that consideration should be given to the fact that the differential adjustment to the so-called Northwest territory, where the 30-cent differential, Brazil-Clinton under Southern Illinois exists, is a territory as a whole, and that Northern Illinois should not be singled out of that and the differentials made any different than the balance of that territory.

I think all those things should be taken into consideration in arriving at whether or not our contention here that our differentials should be restored is a proper contention.

Q. And when you use the term "competitive conditions," I assume you mean competitive conditions as you defined that term on cross-examination by Mr. Stadell?

A. That is right. I think you will find out, Mr. Vesey, by reading the records of the Commission—this is an additional fact—that the Commission itself has said that in a group adjustment distance is not a primary factor in considering the group adjustments as a whole.

Q. Now, as I understand your exhibits and your testimony, you said, first looking at Indiana as a group, that it was more or less a composite group of origin groups, looking at it as a whole; secondly, that Brazil-Clinton measured against Springfield to the suspended territory were substantially equidistant; thirdly, that in determining levels you should use the short tariff routes as set forth in your testimony. Now, are those three fundamentals right?

[fol. 1992] A. Those three are right, yes.

Q. Those three are right. Mr. Scott, if that be true and we wanted in this case to eliminate that inflation which might result from short-haul rates, what objection could there be to a consideration of rate levels Indiana as a group and Illinois as measured by the origin groups, excluding the short-haul groups, namely, Northern Illinois and Fulton-Peoria groups; or, stated in other words, the Springfield, Centralia, DuQuoin, Southern Illinois groups?

A. I don't agree with your contention, Mr. Vesey, that we can call, say, Fulton County a short-haul group when it has a distance of, say, 179 miles or some other similar figure in there. I think you would have to consider the State as a whole, as compared with Indiana as a whole.

Q. Now, if you used the Springfield and Southern groups in Illinois, you would have groups, would you not, which

had distances to the suspended points with the nearest group being equidistant to the nearest group in Indiana, and Indiana treated as composite, would you not?

A. I am sorry; I will ask the reporter to read that, please.

(Question read.)

The Witness: You would have—I don't get the point.

By Mr. Vesey:

Q. In other words, Brazil-Clinton and Springfield are approximately equidistant to the suspended territory?

A. Yes, I get that part.

[fol. 1993] Q. And all other groups in Indiana lie to the south of Brazil-Clinton?

A. Yes, sir.

Q. And all other groups in Indiana, excluding your short-haul groups, lie to the south of Springfield?

A. No, sir.

Q. They do not?

A. No, sir.

Q. What other groups, other than your short-haul groups, lie to the north of Springfield?

A. I wouldn't call them short-haul groups, but Peoria lies in there. Danville is east of Springfield.

Q. Well, isn't Danville part of Springfield and approximately equidistant to this territory?

A. Danville is not a part of Springfield, no, sir.

Q. I say, isn't it approximately equidistant to the suspended territory, Brazil-Clinton?

A. It may be. I think it is close enough.

Q. Well, can you think of a better yardstick to use in measuring levels Indiana vs. Illinois than the Illinois groups, Springfield south, Indiana groups, Brazil-Clinton south?

A. Yes, I think I can take a better one.

Q. What is that?

A. Total of the States compared.

Q. In other words, you think that the Fulton-Peoria, Atkinson, Alpha, Rushville, Northern Illinois groups ought [fol. 1994] to be thrown in in making that rate comparison?

A. Yes, they sell coal to the same places we do. Coal doesn't move from Southern Illinois and Springfield.

Mr. Wilkinson: Just a minute.

By Mr. Wilkinson:

Q. When you say coal doesn't move from Southern Illinois and Springfield, you mean it doesn't move from there solely?

A. That is correct. It moves from all the groups in Illinois.

Mr. Wilkinson: All right.

By Mr. Vesey:

Q. Now, did you ever make a comparison or a study to determine how your rate levels, Indiana vs. Illinois, would compare if you used Brazil-Clinton and the balance of Indiana and Springfield and the balance of the origin groups south of Springfield?

A. No, sir, I have not.

Q. And you don't think that would give a fair picture of the rate levels applicable from both districts to this suspended territory?

A. I would have to give that some study, Mr. Vesey.

Q. In other words, you can't answer that right now?

A. No.

Q. Would you object to making that determination for me when you appear back here on the stand?

Mr. Wilkinson: Yes, we would. You have a very competent rate man sitting at your side and he can make that from [fol. 1995] the same source of information that is available to Mr. Scott. We won't undertake to do it, Mr. Vesey.

By Mr. Vesey:

Q. Now, in measuring those rate levels Indiana vs. Illinois, do you have any preference born of factual reason for selecting one scale as against another for the yardstick?

A. No, sir. I believe, however, that probably the 23922 scale or the 26558 scale might be a little more preferable than some of the others. I don't know. There seems to be some criticism of the H & H scale, but I have no objections to using all three of them.

Q. Do you have an exhibit comparable to your Exhibit 73 wherein you show for your distances those distances computed by you rather than by the carriers?

A. Not to these competitive destinations, no, sir.

Q. Not to these destinations?

A. No.

Q. In other words, in so far as the length and breadth of your testimony is concerned, when it comes to measuring levels in order to have comparable exhibits, you must refer to Exhibit 73 as compared with the other rate level exhibits put in by the other parties?

A. No, sir, that is not true.

Q. What do we turn to?

A. I presented my own comparisons. This is more or less [fol. 1996] in the form of an exhibit prepared from the carriers' exhibits. The previous ones are my own comparisons. I put them in record here.

Q. Yes, but your own comparisons are based upon different destinations, are they not?

A. That is true, but there is nothing any more wrong with my destinations than there are with the carriers'.

Q. You mean they are both in error?

A. Well, I wouldn't say they are both in error. I might be more able to say mine are right and there might be some question about the carriers', if you want to get down to being facetious.

Q. Now, in computing your averages, one with respect to distance—or let's take distance first. In computing your averages with respect to distance, did you compute it in the same way that you made your computation on page 73, Exhibit 73?

A. Yes, sir.

Q. And you made your computation as to rates using the same formula that you used in making the computation on page 73?

A. Yes, sir.

Q. Now, I want to ask you several questions here just as a statistical expert.

A. I don't hold myself out to be an expert; just very ordinary.

Q. Well, just an ordinary statistician, then. What is your position, Mr. Scott, as to whether or not in balancing [fol. 1997] for example, distance against rates, you should use the same formula in ascertaining both?

The Witness: May I have that question read, please, Miss Reporter?

(Question read.)

The Witness: In my Exhibit 73, I have used the formula I did because to do it any other way would result in basing an average rate for the State on an average of averages which, in my opinion as an ordinary mathematician, is wrong; that an average of an average is not proper.

By Mr. Vesey:

Q. That isn't my question. My question is, do you think you ought to use the same formula for determining average distance as you used in determining average rate?

A. I didn't do it on here, Mr. Vesey, and I am trying to tell you why.

Q. I am not interested in why you didn't. I am asking you now, as a statistician, do you think you should use the same formula?

A. I will have to know to what you are applying the formula.

Q. Forget about what I am applying it to.

A. I will have to know it because there are different circumstances; I am sorry.

Mr. Vesey: If the Examiner please, I am asking this witness as a statistician just a few fundamentals without regard to any exhibits or the like.

By Mr. Vesey:

Q. Should you not, Mr. Scott, use the same method in [fol. 1998] determining your average distance as you use in determining your average rate?

A. You will have to give me a hypothetical question before I can answer that because the circumstances will make the answer different.

Q. In other words, you can't answer that question?

A. Yes, I can answer that my way. I can answer it if you will let me.

Q. Do you think, for example, Mr. Scott, that if you use a simple mathematical average in computing distance that you should use a simple mathematical average in computing the rate?

A. Are you talking about Exhibit 73, Mr. Vesey?

Q. No.

A. What are you talking about?

Q. Just about simple averages against simple averages in making comparisons.

A. I will have to answer that question by showing what I mean; I am sorry. Because if I give you an answer under one set of circumstances and you apply that answer to another set of circumstances, that is not my answer to the second set of circumstances to which you have applied it.

Q. You can't answer that?

A. I can answer it, yes, sir.

Q. Do you think that simple averages should be used comparably against simple averages? That is the question.

[fols. 1999–2000] A. Under certain circumstances yes, and under certain circumstances no.

* * * * * * *

[fol. 2001] Mr. Wilkinson: Now, what is a simple average?

Exam. Trezise: You tell him just what you mean by a simple average. You understand what a simple average is; of course you do.

The Witness: I think so, but sometimes I am confused as to whether Mr. Vesey and I understand what a simple average or what any definition of a term in mathematics is.

I want to make it very clear, Mr. Examiner, for this record, for the benefit of the Commission that will consider [fol. 2002] this record, that I am not either an expert mathematician or an ordinary mathematician. I do not hold myself out to be a mathematician of any kind. I merely make figures the way people ordinarily make them.

By Exam. Trezise:

Q. You can add up ten figures and divide them by ten; and would that be your idea of a simple average?

A. Yes.

Q. Is that correct?

A. Yes, sir.

Exam. Trezise: Now, with that in mind, that is what he thinks a simple average is.

By Mr. Vesey:

Q. Do you know what a weighted average is?

A. I know what I think a weighted average is, Mr. Vesey.

Q. What do you think it is?

A. A weighted average is distances that are computed by the route on which the traffic actually moved, and in my

opinion, my definition of a weighted average, as the definition has been used by the Interstate Commerce Commission in cases of this type; that is why I am so careful you and I don't misunderstand each other.

Q. Do you recognize any difference in the type of average, that average you have, for example, as shown in column 5 of your Exhibit 73, as compared with the kind of an average you have shown under column 10 of Exhibit 73?

A. One is an average of distance and the other is an [fol. 2003] average of rate.

Q. That is all that they mean to you?

A. You are averaging two different things.

Q. Now, in getting the figure that you have under column 10, using that just as an example, what that figure represents, does it not, is the total of figures under column 10 in lines 1 to 17, excluding line 6½, divided by the—or rather, lines 1 to 13, excluding 6—divided by the figure which you have in column 6 of 216?

A. No, I don't believe that that is true. My figure that I have under column 10, Mr. Vesey, is arrived at by dividing the figure under column 7, 36,141, by the figure under column 6 of 216.

Q. Yes.

A. Wait, that is wrong, sir. Where I referred to column 7, I should have referred to column 8 because we are talking about the average proposed rate, so it is the figure shown under column 8 of 36,704, divided by 216, gives me the average shown under column 10.

Q. Which means that you used the rates 216 times as a divisor?

A. Yes, 216 rates as a divisor.

Q. Yes. And when you then came to determining percentages, you total the figures in your column 4 and divide that by 2993?

A. Determining the average distance?

Q. Yes.

[fol. 2004] A. Yes.

Mr. Wilkinson: May I ask a question there, Mr. Vesey?

Mr. Vesey: Surely.

By Mr. Wilkinson:

Q. Were there 2993 different distances involved in making up this total of 825,980?

A. Yes.

Q. That is why you used the 2993, to get the average?

A. Yes, sir.

Q. And you did the same thing with your rate. There were 216 rates that went into making up this 37,604?

A. Yes, sir.

Q. And you divide by the number of rates that went to make up that total?

A. Yes, sir.

By Mr. Vesey:

Q. Didn't each of the origin points, the 2993, have a rate?

A. Yes, they did, but——

Q. So there were 2993 rates, weren't there?

A. No, sir, not in my opinion.

Q. How is that?

A. No, not in making up this formula.

Q. Well, there was a rate from each origin point, wasn't there?

A. Would you permit me to explain what I did?

Q. I know what you did. But there was a rate from each origin point?

[fol. 2095] A. I used the group rates. There is a different distance from each origin, but there is a group rate from all of it. So it is a group rate.

Q. Then when you get over to Indiana, instead of having 216 you had 74, didn't you, and instead of having 2993, you had 1064?

A. That is obvious.

Q. That is shown on your exhibit. The net result is that you had less figures to consider in measuring Indiana than measuring Illinois?

A. I only put down the rates involved in this proceeding, in issue in this proceeding and in this record.

Q. Will you turn to page 37 in your prepared statement, and going to the last—to the next to the last full paragraph on that page, my copy reads as follows: "The rate from Southern Illinois was reduced to 25 cents over the rates to Rockford, and the rates from the other groups, except the Fulton-Peoria group, established on the basis of the standard differential under Southern Illinois." Is that your testimony?

A. Yes, sir.

Q. And you still are of the same opinion at this time, are you not?

A. It is obvious what was done, the rates from the tariff. You can check them.

Q. And when you used the term "standard differential," [fol. 2006] you meant that differential which applied Fulton-Peoria under Southern Illinois of 79 cents at Beloit?

A. Yes, sir.

Q. In your consideration of the Fulton-Peoria group, I note that in your exhibits you did not put Atkinson in the Fulton-Peoria group, did you?

A. I showed it separately, I believe.

Q. At the prehearing conference there was some consideration as to the makeup of origin groups, was there not?

A. Well, there might have been some discussion. I don't remember anything very definitely.

Q. Wasn't the agreement reached at the prehearing conference that we would use the origin groups as shown in the carriers' tariffs for determining the points in the various groups?

Mr. Wilkinson: Now, just a minute. I believe that the Examiners who presided at that prehearing conference furnished all parties with a copy of the agreements reached in that prehearing conference, and I think that is the best evidence.

By Mr. Vesey:

Q. Just go on the basis of that. You are familiar with that statement?

A. I don't remember the details of it. It is more than a year ago.

Q. Don't you know that Atkinson in the Milwaukee tariffs is shown as being in the Fulton-Peoria group?

A. It is probably shown but it carries different rates to [fols. 2007–2010] a great many of these points and therefore is not a part of this group.

Q. It has the same rates to nearly all these points, hasn't it?

A. I don't think so, Mr. Vesey. I will be glad to look at the rates and tell you in just a minute. No, it has different rates to quite a number of most representative points.

Q. Well, just looking at it abstractly, Mr. Scott, and looking at it from the point of view, let us say that here are two

Commissioners trying to unscramble this scrambled-up mess, as it appears from the testimony here in the suspended territory. Let me ask you this question: Don't you think, as a matter of fundamental and practical approach, that the Fulton-Peoria origin group ought to include the single mine at Atkinson, the single mine at Alpha, for example, so that that group would be on a comparable basis with other groups in Indiana, other groups in Illinois?

A. Well, I probably could answer that question this way, Mr. Vesey, if you don't mind. You see, Alpha and Atkinson have a lower basis of rates than the Fulton County group going west into the Iowa district, across the Mississippi River, within 100 miles of Davenport, as prescribed by the Interstate Commerce Commission; and if it gets a preferential treatment in going west, I don't know but what that should be taken into consideration in considering rates from Atkinson and Alpha in going either east or north.

. . . . . .

[fol. 2011] By Mr. Vesey:

Q. Yes, I am just basing it, if one is correct on that assumption, then isn't this proposition correct?

A. Mr. Vesey, I would like to answer your question very much. I have been involved in the making of rates for a little while, I know something about them, and believe me that to answer a question that you have just asked me [fol. 2012] would require me to sit down and give a considerable study to the differential of one dollar per ton Fulton County under Southern Illinois to Davenport, and find the reasons for it. There may be reasons for that differential there that do not exist at Beloit. I don't know that.

By Exam. Trezise:

Q. Mr. Scott, can you just answer that without making a study of this? You can't make an intelligent answer to his question, to give him the information or answer that he desires?

A. Yes, sir, Mr. Examiner, I have said that before in answer to that same question. I said it at least four times today.

Q. Well, you agree with the Examiner's answer, substantially?

A. Yes, sir.

Exam. Trezise: Does that help you any, Mr. Vesey?

By Mr. Vesey:

Q. Now, you did testify with respect to the proposal here from the Atkinson mine to Beloit, didn't you, in your direct testimony?

A. I didn't say what it was.

Q. And you testified it was a reduction of 14 cents, Atkinson, didn't you?

A. That is right.

Q. Didn't you make a study of that in preparing these exhibits?

A. I included that in my study of the entire origin territory.

Q. And you were with the carriers, particularly of the Milwaukee Railroad, at the time that the Fulton-Peoria standard differential, as you refer to it, was disrupted, were you not?

[fol. 2013] A. Yes, in July, 1933, that is right.

Q. And you were part of the Committee that made the disruption, isn't that true?

Mr. Biaett: He stated he was not a part of the Committee that made the disruption.

Mr. Vesey: He said he was a member of the Committee.

Mr. Biaett: He said he wasn't——

Mr. Vesey: Query:

By Mr. Vesey:

Q. Were you or were you not a member of the Committee for the carriers that sat in at the time the disruption was made?

A. That is ten years ago and while——

Exam. Trezise: Answer the question.

By Mr. Vesey:

Q. Answer the question.

A. I was not a member of the Committee that decided what it should be. I had no authority to decide that.

Q. What did you do?

A. I did as it was recommended to me by the officers of the railroads.

Q. Oh, you mean the superior officers of the railroad?

A. Yes.

Q. Like the presidents and the president of the Board?

A. You mean traffic managers, Mr. Vesey. The presidents don't bother with these things.

Q. Then just getting it down to this mundane, prosaic [fol. 2014] world of ours, you were in on the disruption?

A. You see, I can't answer some of these questions yes or no, Mr. Examiner.

By Mr. Biaett:

Q. You were in on the disruption only in a ministerial capacity, were you not, Mr. Scott?

A. Yes, I was told what to do.

Mr. Biaett: Fine.

By Mr. Vesey:

Q. Now, what additional facts, Mr. Scott, do you have to have to tell me whether or not the 79-cent differential Fulton-Peoria under Southern Illinois is a reasonable minimum differential than those which you have in your possession by virtue of, one, your experience; two, the study which you made in compiling your exhibits?

A. Well, there *is* a lot of them, I am afraid, Mr. Vesey.

Q. What additional information do you need? Maybe I can supply it right away.

A. No, you would have to sit down and you would have to see the effect it would have somewhere else. You would have to take in the relationship not only the differential Southern Illinois vs. Fulton County; you have to give some consideration as to what it would do to the rest of the Illinois groups; you would have to take into consideration the other rates from Indiana, and as to the differential, as to whether that is a proper differential, one dollar, for example, or not; all those things. It just can't be answered offhand. It requires study.

[fol. 2015] We have tried in the past to decide what proper rates are or what proper differentials are to points and we didn't do it in an hour or in an afternoon.

By Exam. Trezise:

Q. You mean in solving one problem you would have to bring up another problem and then you would have to figure out a second problem and eventually you would have several problems to figure out, whether or not your initial premise was correct or incorrect?

A. That is correct, sir.

Q. That a problem is frequently not a single problem but it is composed of many problems, is that true?

A. That is true.

Q. Is that what you mean when you say you can't give him an intelligent answer on that?

A. Yes, sir. That is particularly true, I think, in freight rate adjustments.

By Mr. Vesey:

Q. Mr. Scott, if you are not going to include the origin point Alpha in the Fulton-Peoria group, and a consideration of your exhibits and the carrier exhibits show that Alpha and Atkinson, for example, are much shorter in distance than the suspended points, are we to understand that it is your position that Alpha and Atkinson should have lower rates than apply from Fulton-Peoria?

A. No, not merely a difference in distance wouldn't warrant that. The difference might be only a couple of miles.

[fol. 2016] Q. In other words, you want them to take the same rates but you don't want the group to have the benefit of the shorter mileage in determining differentials or distances for that group against other Illinois groups or as against Indiana groups, is that your point?

A. I don't want them to take into consideration the shorter distance?

Q. Yes.

A. Distance should be taken into consideration.

Q. No, I said you don't want to put Alpha and Atkinson in the group, as I understand it; neither do you want to accord Alpha and Atkinson lower rates because of their shorter distances, is that correct?

Mr. Wilkinson: Just a minute. I object to that question because it assumes something that this witness hasn't testified to, either on direct or cross-examination, and is

putting other assumptions into the witness's mouth that he has not testified about, and I object to the question.

Mr. Vesey: Oh, if the Examiner please—

Mr. Wilkinson: It is entirely outside the scope of my direct examination of the witness.

Mr. Vesey: Oh, I beg your pardon, Mr. Wilkinson. Your exhibits show the mileages here and it shows the rates, and the witness says he compiled them and he put the exhibits into the record; it is his testimony. I assume he [fol. 2017] knows what his testimony is.

Mr. Wilkinson: Just a minute. The exhibits show Alpha, Atkinson, and these other groups, true; but the witness did not testify one way or the other as to whether they should be separate or should be included in the Fulton County group or the Southern Illinois group or any other group; expressed no opinion on that subject. He showed what the tariffs show with respect to rates and distances from those origin points.

Exam. Trezise: And now Mr. Vesey wants to ask him whether, going outside of his direct, if it is outside, he wants to ask him whether or not Alpha and Atkinson should be included with Fulton-Peoria in going to destinations in Northern Illinois; I think that is what Mr. Vesey has in mind.

Mr. Vesey: Exactly.

Mr. Wilkinson: He said he testified on that in his direct examination. He gave no evidence on that subject whatsoever.

By Exam. Trezise:

Q. Well, Mr. Scott, could you answer the question that the Examiner undertook to formulate?

A. As I understand it, sir, your question is whether Alpha or Atkinson should or should not be considered from the Fulton County group or be put into the Fulton County group to these destinations.

Q. Yes; you said a while ago that Alpha and Atkinson had an advantage going west under Fulton-Peoria; and now, going north, Mr. Vesey, as I understand it, wants to [fol. 2018] know if Alpha and Atkinson should be included in the Fulton-Peoria group, or whether they should have

an advantage if they have a less distance. I don't know whether it is less or not.

Mr. Vesey: That is right.

By Exam. Trezise:

Q. Less distance than Fulton-Peoria.

A. Well,—

Q. Do you want to express yourself on whether or not those two points should be included in the Fulton-Peoria group?

A. Frankly I don't know whether they should or they should not. It would seem to me that that would be a question more appropriately directed to the carriers serving those groups rather than the State of Indiana.

Exam. Trezise: I am through. Go ahead.

Mr. Vesey: I am too. That is all.

Exam. Trezise: Let's see how we stand here. I think we will take a few minutes' recess.

(Recess taken.)

Mr. Dugan: If the Examiner please, I have one question I would like to ask; Larry Dugan, appearing for the Trustees of the Milwaukee Railroad.

Exam. Trezise: Mr. Dugan.

By Mr. Dugan:

Q. Mr. Scott, it is my understanding that in response to a question of Mr. Vesey you stated that the so-called compromised short-haul rates in Indiana applied for up to approximately 125 miles, is that correct?

[fol. 2019] A. No, that is not exactly correct. The compromise short-haul rates as agreed to in that adjustment applied for distances up to 50 miles and not up to 125 miles. That was the distance specifically mentioned in the compromise agreement for the short-haul rates.

Mr. Dugan: That is my understanding of the facts too.

By Mr. Vesey:

Q. Do you mean by that, Mr. Scott, that all rates for distances over 50 miles should be on a group adjustment basis?

A. In Indiana, yes, sir.

Q. Does that square with your theory that they should be?

A. Well, I suppose, Mr. Vesey, we would have to apply it with the distance of 50 miles whether it is more or less to the particular short-haul territory that would be under consideration. You would have to really take into consideration the other mining groups with relation to those destinations and the other destinations nearby there.

Q. In Indiana, 50 miles is the border of your short-haul territory?

A. That is correct, yes, sir.

Q. Shouldn't that also apply in Illinois when you are considering Illinois vs. Indiana?

Mr. Cardy: I object to that. There are different conditions. That is too broad a question to be answered, because the conditions in Illinois and Indiana on short-[fol. 2020] haul traffic are entirely different.

Mr. Vesey: Where does that appear in the record, Mr. Cardy?

Mr. Cardy: Well, I know, but—

Mr. Vesey: I say, where does that appear in the record?

Mr. Cardy: I think Mr. Scott—

Mr. Vesey: No, I am asking you; where does that appear in the record?

Mr. Cardy: Well, Mr. Scott has testified it is 50 miles in Indiana, and the record shows it is about—this record here shows that the short-haul extended about 130 miles, rates.

Mr. Vesey: If the Examiner please, I submit there isn't one scintilla of evidence in this record which supports that statement.

Exam. Trezise: Well, regardless of the objection, I shall rule that the question should be answered if it can be answered. Mr. Scott probably knows the answer to it.

The Witness: My answer to the question is, should the short-haul distance in Illinois be limited to 50 miles the same as it is to Indiana?

By Mr. Vesey:

Q. Comparing Illinois with Indiana.

A. If the circumstances in Illinois were different, I would say that possibly some consideration might be given to a

greater distance than 50 miles, but whether that should be done or not, I say some consideration should possibly be given to it.

[fol. 2021] Q. Just stated simply, unless the variance is shown in conditions, the principle should be the same?

A. Yes, I think that would be true.

Mr. Vesey: That is all.

Exam. Trezise: Do we have further questions? Mr. Boden?

By Mr. Boden:

Q. Mr. Scott, do the Indiana operators ship any coal to Beloit, Wisconsin?

A. Yes, sir.

Q. Do you have any knowledge of the amount of that tonnage?

A. I don't recall it. It is in the record.

Q. In this record?

A. Yes, sir.

Mr. Boden: That is all.

Exam. Trezise: Mr. Wood.

By Mr. Wood:

Q. Mr. Scott, yesterday morning you testified that the different rates could not be established by mileage alone, and several times since then you have made that statement.

A. Differentials, did you say, Mr. Wood, so I will understand your question?

Q. That is right. Now, assuming that two origin points, for instance, Linton-Sullivan to Freeport and Belleville to Freeport are the exact mileage—they are approximately the same, are they not?

A. I don't know. I will look it up.

Q. Well, assuming that they are exactly the same mileage, [fol. 2022] that in your opinion, would eliminate the consideration of mileage in fixing the differential between the two, is that right?

A. Would it eliminate—

Q. As one of the factors?

A. No, it wouldn't eliminate the consideration of mileage, but in my opinion, in arriving at the differentials, you would

have to consider the Illinois and Indiana groups as a whole and not pick out one group here or one group there.

Q. All right.

A. I think that is a very important thing, Mr. Wood.

Q. Then that was one group in Indiana, is it not?

A. Brazil-Clinton?

Q. Right.

A. Is one group in Indiana?

Q. Right.

A. Yes, sir.

Q. And Linton-Sullivan?

A. Yes, sir.

Q. Belleville is a group?

A. Yes, sir.

Q. All right. Now, assuming that you have exact mileages as between Belleville and Freeport and an Indiana group and Freeport, then your consideration in fixing the different rates, differentials, would be based upon the other factors, is that right?

[fol. 2023] A. Would be based upon consideration given to the distance. That is a factor but not a primary or important——

Q. Now, we are assuming the mileage is exactly the same.

A. I understand that.

Q. And you testified yesterday with respect to one point where the mileage was 11 miles difference, the two mileages were 11 miles difference, that that was inconsequential, did you not?

A. I don't remember, but I may have.

Q. All right. Then assuming that the two distances are exactly the same, or less than 11 miles, that would eliminate the distance factor from your consideration in establishing the two rates.

A. No, sir, that wouldn't eliminate it. The mere fact that they are equal would not eliminate the distance as one of the factors, but not the most important or primary factor.

Q. Then how much weight would you give to the distance factor?

A. I would have to know the other circumstance and sit down and figure that out.

Q. What other circumstances?

A. Well, I will give my answer again along those lines. I think the most important factor to take into consideration in establishing rates or differentials such as we have in this proceeding are, first, that we must give consideration to the competitive conditions between the various origin groups. Then I think consideration should be given to [fol. 2024] the consumer who buys the coal and ultimately uses it, so that he is not held down to one source of supply, one particular group in Illinois, one particular group in Indiana or one or two groups. He would have access to coal in Illinois and Indiana, purchase the coal from those origins.

Q. I don't want to set you off, Mr. Scott. We have been all through that and I am not asking that you fill the record more with the repetition of those same factors.

A. But you asked the question, Mr. Wood; I am sorry.

Q. You haven't answered the question. I will restate it. Now, assuming that there are more factors than you enumerated yesterday and today and the day before, which I think were four or five, I have counted, assuming that there would be ten factors in establishing a rate—you can assume that, can't you?

A. Yes, sir.

Q. And one of those factors is distance, right?

A. Yes, sir.

Q. Now, assuming that all other of the nine factors are identically the same, then as an expert you would establish that rate or the two rates in consideration of the difference in distance?

A. Well, in the first place, I don't establish rates; and in the second place, I am not an expert.

Q. Well, then I——

A. But——

[fol. 2025] Mr. Wood: Just a moment, Mr. Examiner. This witness has qualified as an expert. If he is not an expert, we will have to move to strike the whole testimony, his entire testimony. He qualified himself as an expert. I am addressing a hypothetical question to his expert opinion.

Exam. Trezise: Did some one object to it?

Mr. Wood: Shall I restate the question?

Mr. Wilkinson: He objected. The witness said, "I am not an expert." He has given his experience and on the

basis of that experience he has testified. Now, whether that experience makes him an expert whose opinion the Commission——

Exam. Trezise: You mean an expert on that particular thing or an expert on anything?

The Witness: Well, I don't know, Mr. Examiner, just what certain people will consider an expert. I think there is probably a variance of opinion as to what constitutes an expert.

Mr. Wood: All right, then.

By Mr. Wood:

Q. Assuming again that there are ten factors on which you would recommend a rate, a certain rate, as compared to another rate, and in consideration of those two rates in each instance on the one hand, nine of those factors are exactly the same as the nine factors on the other hand, leaving only the one factor, distance, to consider, and there was a difference in the mileage, then you would recom- [fol. 2026] mend those two rates to be established in consideration of that difference in the mileage?

A. No, sir, I wouldn't, because those——

Q. On what factors would you make your recommendation?

A. It is true, Mr. Wood, your question is a hypothetical question. But even though the factors may be identical, there may be degrees in there which would warrant different considerations.

Q. Now, we are assuming that every degree is the same, exactly the same.

A. Rate history, there has been the same rate differential for twenty years and all that, taking all those into consideration; such as two points in the same—the two points were in the same group. Do I understand that to be what you have in mind?

Mr. Wilkinson: As I understand the question, you include every known factor that could enter into the rate?

Mr. Wood: And every degree of it.

Mr. Wilkinson: And every degree of it, and then the only thing you have dissimilar is distance.

The Witness: Well, if there wasn't any vast difference in distance, then I should say they should be given similar treatment.

By Mr. Wood:

Q. Then if an Indiana group was exactly the same distance to a destination that the Belleville group *has*, exactly the same, then we would disregard the distance factor and consider the other nine factors in recommending a rate for [fol. 2027] each or a relationship between the two, is that right?

A. No, sir.

Q. What would you consider?

A. I would say you would give consideration to the distance factor along with others, but the distance factor is not the primary or most important factor.

Q. We have eliminated that, Mr. Scott.

A. You have eliminated distance?

Q. It is exactly the same, yes, sir.

A. And you have got the other——

Mr. Wilkinson: Now, just a minute. Read the question, please, that was asked of the witness.

(Record read.)

Mr. Wilkinson: I submit the answer is responsive to the question.

Mr. Wood: Well, he hasn't answered that yet.

By Mr. Wood:

Q. What would you consider?

Mr. Wilkinson: He would consider all the factors, he said.

The Witness: I would consider all the factors.

By Mr. Wood:

Q. All the other nine factors?

A. Yes, sir.

Q. Now, of those nine factors, assuming that the Linton-Sullivan Group is exactly the same distance from Freeport as is the Belleville group, then what factors are there, in [fol. 2028] your opinion, that call for a ten-cent differential between the rates Linton-Sullivan vs. Belleville?

A. Well, here is my answer. I first take competitive conditions between the various origin groups——

Q. No, we just have two origin groups we are talking about.

A. All right, between the two origin groups, if you want to consider the two separate from the rest. The importance of the consumers being able to go to these two groups, the differential or rate history standing back of those rates from the two groups over a long period of years. I think those are three and probably — would be others if I thought long enough.

Q. All right, let's take the first one. What are the competitive conditions?

A. Ability to sell coal in competition with each other. You must consider whether they can or cannot sell coal in competition with each other. The person in establishing that would possibly give some consideration to the fact that their coal does or does not move in there because of the quality of their coal or something of that sort.

Q. Now, have you made a study of the competitive differences as to Linton-Sullivan into Freeport and Belleville into Freeport?

A. No. My study has gone more to the groups in general rather than individual groups, Indiana on the one hand and Illinois on the other.

Q. You have made no competitive study?

[fol. 2029] A. Not those — two districts, no.

Q. Now, as to your second point, as to furnishing the consumers in that area a wider, more sources, a wider range of sources of supply; that is your second factor?

A. Yes.

Q. Now, what study have you made as to the requirements of the consumers in Freeport as to what sources of supply they have, what types of coal they use?

A. I know that the—I haven't made any at the particular industries in Freeport but I know that the coal sells in competition. We have two groups in mind, Belleville and Linton-Sullivan, as I understand it, that is all we are talking about and I would say this, that having two groups only in mind, it would be of the utmost and primary importance to see the sources of supply for the city of Freeport would not come from one of those two groups, that if there were only two groups that could supply the coal, they have a right to secure their supply from either of the two groups and not at an exorbitant cost.

Q. But you haven't made a study personally.

A. I think my general experience would give me an idea of that, but I haven't sat down and studied it out as you would probably have in mind.

Q. Well, how much has Freeport been involved, in your general experience?

A. Oh, considerably. I have been interested in that ton-
[fol. 2030] nage into Freeport for a long time.

Q. Have you been there?

A. I have been in Freeport, yes.

Q. Have you made a survey as to the requirements and demands and likes and dislikes of the consumers there, and their need for various sources or increased sources of supply of coal?

A. I have known that from my own general knowledge: not from a specific study made from going to Freeport.

Q. How many sources of supply do they have today?

A. Oh, they have all the mines in Illinois and the mines on the Milwaukee for the most part in Indiana, because of the differentials. They can get coal, of course, from any source if they are willing to pay the great differences in freight rates. I admit that.

Q. Do they have more sources today than they had ten years ago?

A. Yes.

Q. And do they need more sources today?

A. I think they could use them, yes, sir.

Q. When did you make a study that caused you to arrive at that conclusion?

A. I said I thought so.

Q. You made no study?

A. No.

Q. Now, as to your third factor, that, I believe, was history.

A. That is right.

[fol. 2031] Q. Now, we are still talking about the ten-cent differential and the justification for it between Linton-Sullivan and Belleville groups into Freeport.

A. Yes, sir.

Q. Now, what, in the history of rate-making, justifies a ten-cent differential, in your opinon?

A. The fact that the rate history will show that to this entire Northwest territory and what is known—where the differential is Brazil-Clinton or Linton-Sullivan under Southern Illinois of 20 cents. That differential, the adjust-

ment has existed for a long number of years. The operators of coal in the various groups that sell coal to most of this destination territory, except in Northern Illinois where it was disrupted by the reduction in rates from the Illinois mines, and consideration, in my opinion, should be given to that history of rates to Northern Illinois.

Q. Then may I summarize your statement by saying that because it has been there that long, it must be good?

A. I think that you will find the Commission has said in their decisions—I base my theory partly on what the Commission has said in some of their decisions, that an adjustment, a group adjustment is assumbed to be all right until it is proven to be wrong, and we did not have—when the differential adjustment in 1930-1932 was disrupted, there was nothing wrong proven with that differential adjustment that had existed prior to that time. It was brought about [fol. 2032] by the action of the Illinois Commission using the rates from the Illinois mines to these destinations without any consideration being given at all to the rates or differentials from the Indiana groups.

Q. Do you personally, in arriving at an opinion, regard the existence of a differential as something sacred?

A. A standard differential, yes.

Q. Do you give it that much weight?

A. I think that is important.

Q. Now, you testified yesterday that you felt that a difference of 11 miles was negligible. Now, would you say twice 11 miles, what was that point to Rockford from—what was some point there in one group as compared to Springfield, I believe it was; Springfield to the twelve destinations? Rockford; 11 miles.

Or stated hypothetically, if the distance were twice 11 miles, 22 miles, would that still be negligible?

A. I think so for the difference in distance of these hauls—I mean the distance of these hauls.

Q. Now, what about 111 miles? Would that be negligible?

A. No, I think——

Mr. Cardy: Mr. Wood, are you talking about mines in the same district or——

Mr. Wood: I am talking about the difference in distances as of one group to a destination, compared to another group to a destination.

[fol. 2033] Mr. Cardy: And not between mines in the same group?

Mr. Wood: No, no.

By Mr. Wood:

Q. Now, would the difference of 111 miles negate the distance factor in consideration of rate-making?

A. Well, you might, when you get up to 111 miles, you would probably want to give some consideration, whether it should be the same or should be different.

Q. Now, where between 22 and 111 miles or between 11 miles and 111 miles, do you begin to place weight upon the distance factor?

A. Well, that is something I would have to sit down and make a pretty good study of, Mr. Wood, before I could answer that.

Q. But you are sure that anything up to 11 miles is negligible?

A. For the distances involved in here, yes.

Q. And you are not positive that 111 miles would be a forceful factor but you think it may?

A. I think you have stated it the way I would want to put it.

Q. And when did you arrive at those two opinions, first, as to the 11 miles being negligible? When did you arrive at that opinion you stated yesterday morning?

A. Well, now, let me see.

Mr. Wilkinson: Oh, I object to that question as being utterly immaterial, having no bearing in this case, when he arrived at an opinion that 11 miles in a situation like this was negligible, of no consequence.

[fol. 2034] Mr. Wood: Well, if Mr. Wilkinson does not like the question, I will withdraw it.

Mr. Wilkinson: It is not that I dislike it; I object to it as being immaterial.

By Mr. Wood:

Q. And ask him when he arrived at the opinion as to 111 miles.

Mr. Wilkinson: I also object to that question as being immaterial.

By Exam. Trezise:

Q. Did you arrive at that conclusion?

A. He asked me a hypothetical question and I have been answering it.

Q. Well, he asked you when you arrived at this conclusion. It is a hypothetical question; all right.

A. When he asked me that question of 111 miles, I arrived at that about three minutes ago, when he asked me about 111. I never gave consideration to that before.

Mr. Wood: Thank you. That is the answer I want.

By Exam. Trezise:

Q. Well, you think there ought to be a difference in rates when there is a difference of 111 miles, is that right?

A. I say when you get that high, you have to sit down and give some consideration to it.

Exam. Trezise: All right.

By Mr. Wood:

Q. Now, you are contending here, according to your statement, that Indiana groups are prejudiced and Illinois [fol. 2035] groups are preferred as to this territory. Now, what if any business do you know of that mines in the Indiana groups have lost to mines in the Belleville group in this territory under consideration?

A. I can't put my finger on any specific piece of business.

Q. Have you made a study or a search of any kind to determine if any business has been lost by Indiana to Belleville at these destinations under consideration?

A. I can't name any particular piece, no, sir.

Q. Did you ever hear of any specific business?

Mr. Vesey: Oh, I object to that if the Examiner please. That has all been covered. As I understand Mr. Scott, he has testified here that he knew of no particular business lost by Indiana to Illinois.

By Mr. Vesey:

Q. Isn't that right, Mr. Scott?

A. Any specific piece of business, any particular consumer?

Q. That is right.
A. That is right.

Mr. Christensen: At the destinations in Northern Illinois involved.

The Witness: Yes. I know there has been tonnage lost but I can't tell you any specific pieces of it.

By Mr. Vesey:

Q. You mean you don't know whether it went to Illinois, to West Kentucky, to Iowa, to the East, do you?
A. Well, I think Indiana has lost it to Illinois, yes, sir.

[fol. 2036] By Mr. McElroy:

Q. That is, you heard of its being lost?
A. I heard of it from our operators, in reduction of tonnage figures.

Mr. Vesey: Skip that.

By Mr. Vesey:

Q. You don't know of any specific loss yourself?

Mr. Wood: Then you are asking the very question you objected to my asking.
Exam. Trezise: Then you are in agreement.
Mr. Wood: The answer is no.
Mr. Vesey: I asked him about his knowledge.
Mr. Wood: The answer is no to my question.

By Mr. Wood:

Q. You don't know of any?
A. I don't know of any specific piece of business, Mr. Wood, that has been lost by Indiana to the Belleville operators.

Mr. Wood: That is all I want to know.
Exam. Trezise: Do we have some further questions of Mr. Scott?
Mr. Cardy: I have a question.
Exam. Trezise: Mr. Cardy.

By Mr. Cardy:

Q. Mr. Scott, the Carriers' Exhibit 4, Section 3, page 6, shows the rate from the Fulton-Peoria District of $1.50

and the haul is 132 miles; 132.5 miles. Can you give us any information as to whether that particular rate has any effect whatever on the Indiana rate adjustment, Indiana [fol. 2037] points in Northern Illinois or to Dixon?

A. I would have to look at this.

Q. That is the rate of $1.50 from the Fulton-Peoria District to Dixon, Illinois; whether or not that specific rate has any particular effect upon the movement of the coal, say, from Indiana that you know of, that you have any knowledge whatsoever about?

A. No, sir.

Q. And I understand that you represent about 90 per cent of the producers in Indiana?

A. I represent the producers producing 90 per cent or more of the tonnage produced on rail mines in the State of Indiana.

Mr. Cardy: That is all.

Exam. Trezise: Mr. Marks, do you have a question?

Mr. Marks: Yes, sir.

By Mr. Marks:

Q. Mr. Scott, in reply to Mr. Vesey, you said, I believe, that you might be able to add Evansville to your Exhibit No. 73.

A. Yes, sir.

Q. Now, if you do add Evansville, you will have all of the Midwestern groups except West Kentucky, will you not?

A. Yes, I believe that is right.

Q. Would you be willing to add West Kentucky also while you are adding Evansville?

A. No, I am afraid I couldn't, Mr. Marks. It would take [fols. 2038-2039] several days to work up that information.

Q. Would you if I work up the figures?

A. Yes, but I would hesitate to testify to those figures because I would be subject to cross-examination.

Q. Would it require any more time to figure West Kentucky than it would Evansville?

A. Yes.

Q. I will say it won't. It is just one line. It can be done in about ten minutes.

That being true, will you undertake to do it if you can?

A. I will be subject to cross-examination on them, and that is why I hesitate to do it.

* * * * * * *

[fol. 2040] Mr. Bather: I beg your pardon.

By Mr. Marks:

Q. In reply to a question that I asked this morning, I believe you stated that you were unwilling to have the so-called Blue Book differentials restored between Indiana and West Kentucky because, in your opinion, operating conditions between Indiana and West Kentucky are different.

A. Yes, sir.

Q. Now, do I understand it is your view that operating conditions in Western Kentucky are more difficult than in Indiana?

A. That is my opinion.

Q. How did you arrive at that opinion?

A. From principally, I would say, from the evidence offered in the Western Kentucky case by competent operating witnesses and from my own general knowledge, slight general knowledge of transportation conditions, particularly where I can testify that the transportation conditions between Illinois and Indiana are similar. But I cannot do that with respect to—I believe otherwise, with respect to operating conditions between Illinois and Indiana on the one hand and Western Kentucky on the other.

Q. Do you hold yourself out to be familiar with operating conditions in Western Kentucky?

A. No, sir.

Q. Have you ever worked in the Western Kentucky Field?

A. No, sir.

Q. Have you ever worked for any railroads operating [fol. 2041] in that field?

A. No, sir.

Q. Have you ever worked in the operating department of any railroad?

A. Yes, sir.

Q. In the operating department?

A. Yes, sir.

Q. Do you have any information as to tonnage ratings from Western Kentucky as compared with Indiana?

A. Not here right now, no, sir. I have seen them but I don't know them.

Q. You do not, then, have any information of your own knowledge, from your own investigation, as to operating conditions in Western Kentucky?

A. I have an opinion. I expressed it as such, Mr. Marks.

Q. Was that opinion gained from your own investigation or from reading and hearing testimony of other witnesses?

A. Reading and hearing testimony of other witnesses.

Q. It is second hand information, then?

A. Well, it was introduced in evidence before the Interstate Commerce Commission, and I heard it while it was introduced and I was a party involved in that proceeding.

Q. In what case do you have particular reference?

A. Docket 28629 and Docket 28689.

Q. You participated in those cases?

[fol. 2042] A. Yes, sir.

Q. Do you recall the evidence presented by the Western Kentucky interests in those cases, that the tonnage ratings from the Western Kentucky Field to Chicago by way of Mattoon permitted trains of 90 to 100 cars to be operated over the single line of the Illinois Central Railroad?

Mr. Wilkinson: I object to that.

Mr. Marks: I asked him that. He said he participated in that hearing, he is familiar with it, and I asked if he recalled hearing that evidence.

Exam. Trezise: Now, he did not testify to that in this other case and he doesn't know anything about it and that is in another record; even if he did hear that thing, that wouldn't be evidence here.

Mr. Marks: If he doesn't know anything about it, that is all I want to find out.

Exam. Trezise: You can't make that evidence here unless you have some witness to testify to it.

By Mr. Marks:

Q. Now, I would like for you to refer, please, to your Exhibit 73. Suppose we look at column 9. Now, assuming that the rates from Southern Illinois to the twelve destinations will not be changed as the result of this hearing and will remain $2.06 on the average, what rate, under your theory, would be made from the Brazil-Clinton group to the same destinations?

[fol. 2043] A. Rates that would reflect to each individual destination a differential of 30 cents under Southern Illinois.

Q. And that would make the Brazil-Clinton rate $1.76, would it not?

A. On average rates, yes.

Q. Now, what would you do with the Danville rate if you got $1.76 from Brazil-Clinton?

A. I don't know what I would do with it. I wouldn't be interested particularly in doing anything. I don't understand, Mr. Marks.

Q. Would you be willing to concede that some change would have to be made in it to avoid 4th Section departures?

A. I would have to check that up. I doubt it. I think Danville is——

Q. You think it would be entirely proper to make no change in the tariff rate of $1.82 if $1.76 is established from Brazil-Clinton?

A. You can't have a 4th Section violation, Mr. Marks, on the basis of average rates. You have got to have the rate, and I don't believe that if Brazil-Clinton were put on its differential of 30 cents under its present rates from Southern Illinois, it would result in any 4th Section departure, because I believe and I am sure that rates from Danville were reduced the full amount in 1930, as shows from Southern Illinois and Springfield, and therefore, in my [fol. 2044] opinion, there would be no 4th Section departures in the event the rate from Southern Illinois would remain the same as it is today and the Brazil-Clinton rates made 30 cents under rates; Southern Illinois.

Q. You think that would be a fair adjustment, to have a $1.76 rate from Brazil-Clinton and a $1.82 rate from Danville?

A. Yes, sir, I do, on the present rates.

Q. Notwithstanding that Brazil-Clinton is 33 miles further distance than Danville, as shown by column 5?

A. Well, if they warranted it and wanted to reduce the rates from Danville and the carriers wanted to reduce the rates from the Danville group to the Brazil-Clinton basis, I don't know whether I would have any objection or not. I would probably look into the rate situation, have the individual groups give me something to work into an average rate.

Q. Now, continuing further under your proposed basis, what would Boonville be if the Brazil-Clinton rate were reduced to $1.76, as shown under your column 9?

A. $1.56.

Q. $1.96, wouldn't it be?

A. Or $1.96.

Q. Now, have you given any consideration to the resulting differentials between Boonville and West Kentucky if Boonville is reduced ten cents and no change is made in West Kentucky?

A. I haven't. My exhibits have been based on the relationship throughout—and my contentions throughout the [fol. 2045] proceeding, between Indiana on the one hand and Illinois on the other.

Q. Now, I believe in reply to my question this morning about your objection to any reductions from West Kentucky, you said that those differences between Indiana and West Kentucky were fixed in the so-called Indiana-Illinois coal case of 1927?

A. Yes, sir.

Q. Now, then, if they were fixed in 1927, wouldn't you upset those differentials that were fixed in 1927 if you reduced Boonville ten cents without any change from West Kentucky?

A. No, sir.

Q. Why?

A. Because the differentials from Illinois-Western Kentucky were made 35 cents over the rates from Illinois, I believe, back at that time. I am not sure about that. I had better not state that. I don't recall now. I would have to look at the rate history for a moment to tell you, Mr. Marks, if you don't mind.

On August 1, 1932, the rates from Western Kentucky were reduced to the basis of 35 cents over Southern Illinois and at that time no reduction was made in the rates from Boonville.

Q. Now, then, if you do get your reduction that you are asking for from Boonville, you will have a rate of $1.96 from Boonville, and if the rates from Danville are reduced to $1.76, as you contend might well be proper, there will be a spread of 20 cents between Danville and Boonville, will there not?

A. Yes, sir.

[fol. 2046] Q. Now, according to column 5, the difference in distance between Danville and Boonville is 165 miles. Do you consider a 20-cent differential proper for 165 miles?

A. You are taking the Danville group and relating it to the Boonville group, and you are also taking an average rate here and talking about the differentials under an average rate from various groups to various destinations

as a whole. I think that the question cannot properly be answered on the basis of an average rate. It would have to be answered on the basis of individual rates to individual points.

Q. Do you mean you have departed from your group basis and come back to making rates from individual points in the groups?

A. I don't believe in making differential rates on an average rate, Mr. Marks. These are average rates to show the levels. I don't believe the differential should be based on the averages. They should be based on the rates as they are published.

Q. Let's get away from the 12 and take any one point.

A. That is exactly what I want to do.

Q. Won't you still have a difference of 20 cents in your rates?

A. Yes, sir.

Q. For those distances by either a rate higher than or a rate less than this difference shown on this exhibit of 165 miles?

A. Let's get a difference to a point and talk about it. I can talk much more intelligently on that than I can on averages. You see, I don't believe in making differentials [fol. 2047] on average rates, that is not my theory, average rates, and that is what you were trying to bring out with me, I believe.

By Mr. McElroy:

Q. Or average distances?

A. Average distances from the groups is different, but I mean average destinations.

Q. You have to take in the competitive situation between the various groups?

A. Yes, sir. But Mr. Mark's questions were directed to me as to actual differences in distances that exist under average rates to representative destinations.

Q. So you are not undertaking to say that the 20-cent differential for 111 miles would be justified or not justified? You would have to consider the groups, the history of the groups, the competitive situation as between the groups?

A. That is right, yes, sir.

Mr. Marks: All right.

By Mr. Marks:

Q. Now, as I understand, you feel that Boonville might well be reduced somewhat below what it would otherwise be because of a competitive situation?

A. Not what it might otherwise be, no; what it should be.

Q. All right, what it should be. Now, if competition is proper in reducing Boonville because of its great distance from the markets, why wouldn't competition be of equal weight in making our rates from West Kentucky to the same destinations?

A. It would have some bearing but the other factors [fol. 2048] must be taken into consideration also. You cannot get away from those other factors.

Q. Now, what are those other factors?

A. Transportation conditions. That is one, and the situation that you are just outlining, in my opinion, is a most important consideration.

Q. Well, have you given any consideration as to what would be the result if you did get your ten-cent reduction from Boonville as compared with Western Kentucky?

A. I think we would be on a proper basis with West Kentucky then, because it got its reduction of 35 cents over Southern Illinois.

Q. I believe you testified West Kentucky is 35 cents over Southern Illinois?

A. Yes, sir.

Q. To these destinations?

A. Yes, sir.

Q. And your proposed rate from Boonville is ten cents under Southern Illinois?

A. Yes, sir.

Q. Or a proposed differential of 45 cents between Boonville and West Kentucky?

A. That is right.

Q. Now, the Carriers' Exhibit No. 11 also, according to my computations, shows an average distance of 432 miles [fol. 2049-2050] from West Kentucky to these twelve destinations. That is 43 miles over Boonville. I will ask you, as a rate man, not as an expert, whether in your opinion 45 cents for 43 miles is proper, considering that it is the most distant group in the basis?

A. Forty-five cents difference for 43—I didn't follow your figures when you called them off of Exhibit 11. I would like to see them, Mr. Marks, if you please.

I come back to this point where I can say that the differential of 45 cents is or is not proper because distance alone should not govern the propriety of that differential.

Q. Doesn't it appear high?

A. Not when you take other factors into consideration, no, sir.

[fol. 2051] Exam. Trezise: How long will it take you to ask your questions?

Mr. Bather: Five minutes.

Exam. Trezise: All right, let's give it five minutes.

By Mr. Bather:

Q. Mr. Scott, you testified that by reason of the decisions of the Illinois Commission in 1930 and 1932, the differentials in Indiana were disrupted. You understand, of course, that the Illinois Commission could not issue an order requiring the Indiana lines to maintain those differential relationships?

A. Yes, sir.

Q. What effort did your organization make to have that situation adjusted?

A. We have participated in three lengthy proceedings, several of the proceedings going over a period of two or three years. We have been in constant negotiation with the carriers for voluntary adjustment in those rates. I do not believe there has been any time for more than a period of a few months when that matter of straightening that out has not been the subject of negotiations, either formally or informally.

Q. And that situation was partially corrected by the publication of the 17-cent rates in the reduction from the Brazil-Clinton and the Linton-Sullivan Districts?

A. On the Milwaukee Railroad?

[fols. 2052-2127] Q. And the Illinois Central.

A. Yes, sir.

[fol. 2128] Exam. Trezise: All right, Mr. Wood.

H. F. Cholet was sworn and testified as follows:

Direct examination.

By Mr. Wood:

Q. Will you please state your name, business address, and occupation, for the record?

A. My name is H. F. Cholet. I am employed as Assistant Traffic Commissoner of the Fifth and Ninth Districts Coal Traffic Bureau. My business address is 407 North Eighth Street, St. Louis, Missouri.

Q. What is the Fifth and Ninth Districts Coal Traffic Bureau?

A. The Fifth and Ninth Districts Coal Traffic Bureau is a voluntary organization of coal producers whose mines are situated in the Belleville and DuQuoin coal rate groups in Illinois.

Q. Is the boundary and geographical location of those groups shown on Witness Rozene's Exhibit No. 20?

A. Yes. The Belleville group is identified on that exhibit [fol. 2129] by the numeral (6) and the DuQuoin group by the numeral (7).

Q. What experience have you had in connection with transportation matters?

A. I have had 27 years experience in rate and transportation matters. I was employed by the Illinois Central Railroad in various capacities for a period of seven years, from 1916 to 1923. From 1923 to 1925 I was employed by the Missouri Pacific Railroad in the office of the Auditor of Freight Receipts as a rate revising clerk. From 1925 to 1928 I was employed as a rate clerk in the Traffic Department of the Missouri State Highway Commission. From 1928 to 1941 I was employed in the Transportation Department of the Missouri Public Service Commission as Assistant Rate Expert. Since that time I have been employed in transportation work, and for the latter part of the period as Assistant Traffic Commissioner of the Fifth and Ninth Districts Coal Traffic Bureau.

Q. Have you familiarized yourself with the issues involved in these proceedings?

A. Yes, I have.

Q. What is the position of the Fifth and Ninth Districts Coal Traffic Bureau and its members in these proceedings?

A. We are opposed to the increases proposed in the present rates from the Belleville and DuQuoin groups by the respondent carriers in the suspended tariffs, and also opposed to the issuance of any 13th section order, such as [fol. 2130] they request, which would require increases in the present intrastate rates on coal from mines in the Belleville and DuQuoin groups to the Northern Illinois points involved in these proceedings.

Q. Will you briefly state the principal reason for the position of the Fifth and Ninth Districts Coal Traffic Bureau and its members?

A. This is the second time that the railroads have attempted to increase the present rates on coal from the Belleville and DuQuoin, Illinois groups to Rockford, Freeport, and some of the other Northern Illinois points involved in these proceedings. In the prior case, Docket No. 23130, Intrastate Rates on Bituminous Coal between Points in Illinois, 182 ICC 537, the Interstate Commerce Commission dismissed the carriers' 13th section, petition because it found that the rates which they were voluntarily maintaining on coal from mines in Indiana to Northern Illinois points were on a substantially lower level than were the rates from the Illinois mines to those points, and the Commission stated that it could not or would not require any increases in the present intrastate rates from the Illinois mines to those points until the railroads had increased the existing rates from the Indiana mines to the Northern Illinois points involved to the level that they were seeking to establish from the Illinois mines.

Mr. Wilkinson: I suppose, Mr. Examiner, to keep the record straight here, I should object. The Commission's [fol. 2131] report will speak for itself, and I move that this be stricken.

Exam. Trezise: The Examiner knows what is in the report, and I guess there will not be any misunderstanding.

Mr. Wilkinson: All right.

The Witness: The railroads have not increased the rates from the Indiana mines, as the Commission indicated they should do before increasing Illinois rates. On the contrary, as stated both by Mr. W. H. Kuhls and Mr. H. A. Rozene,

they have reduced the rates from the mines in the Brazil-Clinton Indiana Group, served by the Milwaukee Railroad to Rockford, Freeport, and intermediate points, 17 cents per ton since the Commission decided Docket No. 23130, and they have reduced the rates from mines in the Linton-Sullivan Indiana group to those points, 12 cents per ton.

Following these reductions in the rates from the C., M. & St. P. & P. Railroad Indiana mines, the Illinois Central also reduced the rates from mines on its line in the Linton-Sullivan group to Rockford, Freeport, and other Northern Illinois points, to which I referred, 12 cents per ton below the basis in effect from those mines at the time of the decision of the Commission in Docket No. 23130.

We are, of course, unalterably opposed to the establishment of a higher level of rates from the mines in the Belleville and DuQuoin Illinois groups to the Northern Illinois points, to which increases are proposed in these proceedings, [fol. 2132] than from the Indiana mines, and it is our position that the Interstate Commerce Commission has no authority, under the provisions of Section 13 of the Interstate Commerce Act, to require the establishment of a higher level of rates intrastate from the mines of our members to these Northern Illinois points than it approves for equal distances from the mines of our competitors in Indiana.

By Mr. Wood:

Q. Have you prepared exhibits showing the average distances over the short tariff and shortest tariff routes, and the present and suspended rates from the Belleville, DuQuoin, and other groups in Illinois and Indiana to the representative suspended points in Northern Illinois, and the representative comparative points in the territory beyond?

A. No, because we have collaborated very closely with Mr. Rozene in the preparation of the exhibits and testimony which he presented in these proceedings showing the average short tariff and average shortest tariff route distances from all of the origin groups in Illinois, Indiana, and Western Kentucky to the representative suspended and comparative points, the present and suspended rates from those groups to these points. We did this in order to avoid duplication which would result from having several exhibits containing the same average short tariff or shortest tariff route mileages from these various groups. I desire to state that

we subscribe to and adopt these exhibits and his testimony in connection therewith, to the same extent as if I had pre- [fol. 2133] sented them myself.

Q. Have you prepared any exhibits for presentation in these proceedings?

A. Yes, I have prepared one exhibit, which has been marked No. 76, and which I would like to briefly discuss.

(Exhibit 76, Witness Cholet marked for identification.)

Page 2 following page 1, the title page, of this exhibit shows the rates which were in effect from the Belleville Illinois group and from the Brazil-Clinton, Linton-Sullivan, Princeton, and Boonville Indiana groups to Rockford and Freeport, Illinois, on August 20, 1930, which was at the time of the hearings before the Interstate Commerce Commission in Docket No. 23130. It also shows the present rates from those groups to these points, and the increased rates under suspension in these proceedings, as well as the increases or decreases which have been made in the rates from those groups to the two destinations named, since August 20, 1930, and the increases that are proposed by the rates under suspension.

It will be noted that while the present rate from the Belleville group to Freeport and Rockford reflects an increase of 10 cents per ton over the rate in effect on August 20, 1930, the present rate from mines served by the C. M. St. P. & P. Railroad in the Brazil-Clinton Indiana group reflects a reduction of 7 cents per ton, and the present rates from [fol. 2134] mines on that railroad, and from mines on the Illinois Central in the Linton-Sullivan Indiana group reflects a reduction of 2 cents per ton under the rates in effect from that group to Freeport and Rockford on August 20, 1930. The present rates from the mines served by the Milwaukee in the Brazil-Clinton group have therefore been changed a total of 17 cents per ton, and the rates from mines on the Milwaukee and Illinois Central in the Linton-Sullivan group have been changed 12 cents per ton since August 20, 1930, to the disadvantage of the mines in the Belleville and Du-Quoin groups and to the advantage of the mines in the two Indiana Groups named.

In other words, except for the Ex Parte No. 115 increase of 10 cents per ton which is reflected in the present rates from both the Illinois and Indiana mines to the Northern Illinois points to which the increased rates are proposed in

these proceedings, the present rates from all mines on the C. M. St. P. & P. in the Brazil-Clinton group to Freeport, Rockford and intermediate points are 17 cents per ton lower, and the present rates from all mines on the Milwaukee and Illinois Central in the Linton-Sullivan group to those points are 12 cents per ton, respectively, lower than the rates which were in effect from the mines in those groups at the time of the decision of the Interstate Commerce Commission in Docket 23130.

Page 3 of my Exhibit No. 76 presents a comparison of the average short tariff route mileages which are shown in the [fol. 2135] railroad's Exhibits Nos. 3 and 4 and in Rozene's Exhibit No. 23, and the present and suspended rates from the Belleville group, on the one hand, and the Linton-Sullivan, Princeton, and Boonville groups on the other, to 10 of the 12 representative suspended Northern Illinois points. This exhibit fully supports the showing which was made in witness Rozene's Exhibits and indicates that the present and suspended rates from the Belleville group are on a higher level than are the present or suspended rates from the Indiana groups referred to.

To Rockford and Freeport, for example, for average short tariff mileages of 332 and 334 miles, respectively, the railroads propose an increased rate of $2.15 per ton from the Belleville group, yet they apparently are willing to accept as reasonable and proper an increased rate of but $2.01 per ton from the Princeton group to DeKalb for 333 miles on the same identical distance. While they propose to increase the rate from the Belleville group to Rockford and Freeport from $2.00 to $2.15 per ton, for average short tariff route mileages of approximately 333 miles, they propose to increase the rate from the Princeton group to DeKalb but 5 cents per ton, or from $1.96 to $2.01 per ton and to accept that rate of $2.01 per ton for the same number of miles of transportation, that is, 333 miles, from the Princeton group to DeKalb. If the proposed increased rate of $2.01 from the Princeton group to DeKalb i a just and reasonable rate and compensatory for the service performed [fol. 2136] for 333 miles, it is obvious that the present rate from the Belleville group of $2.00 per ton for 333 miles of transportation service is also reasonable and proper and should not be increased.

The reasonableness and propriety of the present rate of $2.00 per ton from the Belleville group to Rockford and Freeport for an average distance of 333 miles is also clearly demonstrated by the other present and suspended rates shown on page 3 of my exhibit, from the Indiana groups to the other representative Northern Illinois points involved for substantially greater distances, which greater distances means more transportation service, that is, more miles of transportation service.

As illustrative, the present rate from the Princeton group to Sterling, Illinois, is but $2.01 per ton for an average short tariff route distance of 371.8 miles, and the railroads propose to increase this rate but 5 cents per ton or to $2.06 per ton. To DeKalb, the present rate from the Boonville group is $1.99 per ton for an average short tariff route distance of 380.5 miles. The railroads propose to increase this rate but 5 cents or to $2.04 per ton. It would seem apparent that, if as Witnesses Nelson and Hamilton stated on cross examination, the proposed increased rates from the Indiana mines to the Northern Illinois points involved constitute just and reasonable rates, that the proposed increased rates from the Belleville group to those [fol. 2137] points for the much shorter distances involved are clearly unjust and unreasonable.

There is one other illustration which I would like to direct attention to on page 3 of this exhibit, and that is in connection with the present and proposed increased rates of $2.04 and $2.09 per ton, respectively, from the Boonville group to Sterling, Illinois, for an average short tariff route distance of 431.1 miles. This average mileage is almost exactly 100 miles greater than the short tariff route distance from the Belleville group to Rockford and Freeport, two of the most important of the Northern Illinois points to which the rates are under suspension, yet, despite the 100 miles less average distance and less transportation service from the Belleville group to Rockford and Freeport than from the Boonville Indiana group to Sterling, the railroads propose a rate 6 cents per ton higher from the Belleville group to Rockford and Freeport than from the Boonville group to Sterling.

On page 4 of this exhibit I have shown the average short tariff route distance from the Belleville and Southern Illinois groups, from the Belleville and Princeton groups, and from the Belleville and Boonville groups to the 12 represen-

tative Northern Illinois suspended points, and the difference between the average distance from those groups to those points, as well as the difference between the suspended rates from those groups to those points. I have also shown the same information with respect to the average short [fol. 2138] tariff route mileages and the average suspended rates from the Belleville, Southern Illinois, Princeton, and Boonville groups and the difference between the average mileages and suspended rates from those groups to Rockford and Dixon, Illinois.

It will be noted that the difference in the average distance between the Belleville and Southern Illinois groups to all 12 points is 43 miles, and the difference between the suspended rates from those groups to those points, which is also the difference between the present rates, is but 10 cents per ton. Contrasted with this, the difference between the average distance from the Belleville group, on the one hand, and the Boonville group on the other, to those points is 72 miles, or almost twice as great as between the Belleville and Southern Illinois groups, yet the difference between the suspended rates from the Belleville group, on the one hand, and the Boonville group on the other, is but 10 cents per ton. To Rockford, Illinois, the difference in average distance between the Southern Illinois and Belleville groups is 37 miles, and the differential between the suspended and present rates from those groups is but 10 cents per ton. Contrasted with this, the difference between the average mileage from the Belleville group, on the one hand, and the Boonville group on the other, to Rockford, is 77 miles, or more than twice as great as the difference between the Belleville and Southern Illinois groups, yet the difference [fol. 2139] between the suspended rates is but 12 cents per ton. Under the proposal which has been advanced by Mr. Scott and the Southern Railway, this 77 miles more transportation service from the Boonville group to Rockford than from the Belleville group, would be entirely disregarded and the rates from the Boonville group would be placed on precisely the same basis as the rates from the Belleville group.

To Dixon, Illinois, the average difference in distance between the Belleville and Southern Illinois groups is 27 miles, and the differential between the present and suspended rates is 10 cents per ton. The average distance from the Boonville group to Dixon is 81 miles greater than from

the Belleville group, while the average distance from the Princeton group to that point is 67 miles greater than from the Belleville group. The suspended rates are 11 cents and 14 cents per ton, respectively, higher from the Princeton and Boonville groups than from the Belleville group to Dixon. These differentials are clearly out of line with the differential of 10 cents per ton between the rates from the Southern Illinois group, on the one hand, and the Belleville group on the other, to Dixon, for a difference in distance of but 27 miles. Under the proposal of Mr. Scott on behalf of the Indiana mines, and of the Southern Railway, the difference in distance of 67 miles, Princeton over Belleville, and 81 miles, Boonville over Belleville, to Dixon, which require that many more miles of transportation [fol. 2140] service, would be entirely disregarded and the rates from the Boonville group would be placed on the same basis as from the Belleville group, while the rate from the Princeton group would be made 3 cents per ton lower than from the Belleville group.

The suspended going rate from the Linton-Sullivan group to Dixon is 1 cent per ton lower than from the Belleville group, although the average distance from the Belleville group is 18 miles less. As I understand the proposal advanced by Mr. Scott, on behalf of the Indiana mines, it would, if adopted, result in reducing the present low rates from the Indiana mines to Dixon and in placing the rate to that point 10 cents per ton under the suspended rate from the Belleville group.

We subscribe to the principle advocated by Mr. W. H. Kuhls, one of the witnesses on behalf of the petitioning and respondent railroads, that the rates from a group in Indiana to the Northern Illinois points involved, such as the Brazil-Clinton group, should be the same as from a group in Illinois located an equi-distance from any destination. But we insist that the Commission should not stop, as it did in I&S Docket No. 4368, when it comes to applying the same identical principle to the rates from other equi-distance groups in Indiana, on the one hand, and in Illinois on the other, such as the Belleville Illinois group, on the one hand, and the Princeton Indiana group on the other, or the Southern Illinois group, on the one hand, and the Princeton and Boonville groups, on the other, but that it [fol. 2141] should apply that principle equally and fairly with respect to the rates from all of the groups in the mid-

western field in order to eliminate preference and prejudice and relatively unreasonable rates from the Belleville, DuQuoin, Southern Illinois, and other Illinois groups.

In other words, we insist that if it is fair and proper, as Mr. Kuhls on behalf of the railroads, and Mr. Scott on behalf of the Indiana producers, have contended, to make the rates to these Northern Illinois points the same from the Brazil-Clinton Group as from the Springfield group where the average distances from those groups to those points are substantially the same, then it is equally fair and imperative that the rates from the Princeton and Boonville Indiana groups should be the same or higher than from the Belleville group, dependent upon whether the distances from the Indiana groups are the same as from the Belleville group or higher.

I also wish to call attention to the fact that the average difference between the short tariff route distances from the Southern Illinois group, on the one hand, and the Springfield Illinois group on the other, to the 12 representative suspended Northern Illinois points is 128 miles, and that the difference between the present and suspended rates from those groups is 30 cents per ton. If this is a fair and reasonable differential, and no claim has been made by any party to these proceedings that it is not a fair, reasonable, [fol. 2142] and proper differential for this difference in distance, then it is our position that the differential between the Boonville group, on the one hand, and the Brazil-Clinton group on the other, to such destinations can not reasonably or properly be less than 30 cents per ton for the average differences in the short tariff route distance between those groups of 133 miles.

Q. Have the mines in the Belleville and DuQuoin groups been able to ship a large quantity of coal to the representative suspended points under the present rate adjustment?

A. No. According to the railroads' own Exhibit No. 4 they have not, and the tonnage during the first six months of 1942 represented a very substantial loss as compared with the tonnage shipped during the first six months of 1941.

Mr. Wilkinson: Can I ask you right now what page that is shown on, on your exhibit 4? Can you tell us where you show those figures?

A. Yes, I am coming to that.

Mr. Zoll: I believe Section 8 of that exhibit shows the tonnages.

The Witness: It is Exhibit 4, Section 8.

Mr. Wilkinson: Thank you.

The Witness: Pages 2 to 5, inclusive. For example, to DeKalb, the tonnage from the DuQuoin group declined from 900 tons during the first six months of 1941 to but 50 tons during the first six months of 1942. To Rochelle, the [fol. 2143] tonnage from the DuQuoin group declined from 2300 tons during the first six months of 1941 to 2000 tons during the first six months of 1942. The tonnage from the Belleville group to DeKalb declined during the first six months of 1941 from 750 tons to nothing during the first six months of 1942. To Geneva, the tonnage from the Belleville group declined from 1550 tons during the first six months of 1941 to but 300 tons during the first six months of 1942. To Sterling, the tonnage from the Belleville group declined from 250 tons in the first six months of 1941 to but 50 tons during the first six months of 1942.

Mr. Zoll: Mr. Cholet, these figures are in Exhibit 4 that you are reading?

The Witness: Yes.

Mr. Zoll: If they are right in the exhibit, I don't want to object, but I don't see the purpose of reading them.

The Witness: I am calling attention to these figures, Mr. Zoll. To Rockford the tonnage from the Belleville group declined from 22,931 tons in 1941 to but 8,465 tons during the first six months of 1942. This was a loss of 14,466 tons or 63 per cent. To Rochelle, the Belleville group shipped 150 tons during the first six months of 1941, and during the first six months of 1942 this group shipped nothing. The tonnage from Belleville group to DeKalb, Dixon, Geneva, Rochelle, Rockford, and Sterling, declined from 26,305 tons in the first six months of 1941, to 9,452 tons in the first six months [fol. 2144] of 1942, or a loss of 16,853 tons, or 64 per cent.

I also wish to point out that the Belleville and DuQuoin groups have been able to ship but a very small quantity of coal to the representative comparative points. To Ft. Atkinson, Janesville, and Lake Mills, Wisconsin, for example, no coal moved from the DuQuoin Illinois group during either the first six months of 1941 or 194_, nor did the Belleville group ship any coal to Ft. Atkinson or Lake Mills during the first six months of either 1941 or 1942. The tonnage from that group to Janesville decreased from the insignifi-

cant total of 100 tons during the first six months of 1941 to but 50 tons, equivalent to one car, during the first six months of 1942.

As the railroads' exhibit shows, as I have pointed out, neither the Belleville nor the DuQuoin group shipped any appreciable tonnage to either the representative suspended or representative comparative points, and as the tonnage from those groups to those points, where any has moved, has substantially declined or disappeared entirely during the first six months of 1942 as compared with the first six months of 1941, it would seem apparent that no legitimate claim can be made that the present intrastate rates from those groups to the Northern Illinois points involved result in any undue preference to the mines in those groups or undue prejudice to interstate commerce or in any revenue discrimination against interstate commerce, in violation of Section 13 of the Act.

[fols. 2145-2161] (Exhibit 76, Witness Cholet, received in evidence.)

Exam. Trezise: Do you have another exhibit now?

The Witness: No, just one exhibit.

Exam. Trezise: Then what do you mean by saying that it showed the distances over the shortest tariff routes? I understand you use only the short tariff routes.

The Witness: That is right.

Exam. Trezise: Well, your answer on page 2 of this typewritten statement, in response to the question asked whether you showed it over the short tariff route and shortest tariff route, and you said you did. You didn't mean that?

The Witness: I didn't mean I made separate computations. These figures are taken from other exhibits.

Exam. Trezise: Well, the shortest tariff routes were not taken from other exhibits?

The Witness: The short tariff routes.

Exam. Trezise: The short tariff routes were, but you haven't got any shortest tariff routes?

The Witness: I have got the short tariff routes in this exhibit.

Exam. Trezise: And when you said you had the shortest tariff routes, you didn't mean that?

The Witness: No.

Exam. Trezise: Thank you.

[fol. 2162] Exam. Trezise: Do we have further questions of this witness?

Mr. Wilkinson: I have just a few questions.

Exam. Trezise: Mr. Wilkinson:

By Mr. Wilkinson:

Q. You have made comparisons of Belleville and Boonville in your exhibits. Do you know whether or not Boonville ships any substantial quantity of coal into this territory?

A. Of my own knowledge, I do not know.

[fol. 2163] Q. You don't know whether the rates from Boonville have any effect upon the ability of any of the members of the association you represent in selling coal in this territory or not, do you?

A. No, I don't.

Q. You merely took Boonville because of the mileage shown and the rates, rather than because it was a factor in the competitive situation?

A. Well, I have shown Boonville because the distances are somewhat greater than from Belleville, and that was my purpose in showing it on this exhibt.

Q. But you didn't mean to indicate or have the Commission believe that the fact that the distance from Boonville to Rockford was greater than from Belleville to Rockford and that the rate was only 10 cents more, that that particularly injured Belleville? Did you mean to indicate that?

A. Well, I mean to indicate that as measured by the amount of transportation service that Boonville was relatively lower than Belleville.

Q. Well now, looking at Geneva, Illinois, where no coal moved from Boonville to Geneva during the 18 months, the year 1941 and the first six months of 1942, was there any greater transportation service from Boonville to Geneva than there was from Belleville where they did haul a considerable quantity of coal?

A. Well, course, if Boonville moved no coal, then there [fol. 2164] was no transportation service performed.

Q. Well now, do you think in the first six months of 1942 that the amount of transportation service from Boonville as compared to that from Belleville to Rockford was greater or less, no coal moving from Boonville to Rockford in that period?

A. Well, according to the railroads' exhibit, page 5, section 8, Exhibit No. 4, there wasn't any coal moving from Boonville to Rockford during the first six months of 1942.

Q. And during the entire year of 1941 there was 615 tons moved from Boonville to Rockford?

A. That is right.

Q. Would you say that that involved substantially more transportation service than the 23,000 tons that moved from Belleville in the first six months of 1941?

A. Well, I don't know what the weighted average is, Mr. Wilkinson.

Q. Now, referring to your exhibit, Mr. Cholet, where you compare the rates of the Milwaukee Railroad from the Linton-Sullivan Group to Freeport, that is on page 3, with the rates from the Belleville group to Rockford and Freeport, do you believe it is a proper comparison to compare the Milwaukee rates with the rates from Belleville and using the average distance from the Linton-Sullivan Field and just the Milwaukee rates?

A. Well, as I understand it, Mr. Wilkinson, the witness for the Milwaukee Railroad stated something here about [fol. 2165] putting all the rates in the one group on the same basis.

Q. Yes.

A. Well, if you put those rates on the same basis from all mines in the Linton-Sullivan Group, then you are going to get $2.05 for an average short tariff route distance of 331 miles.

Q. Yes, if you did that.

A. That is right.

Q. But at the present time and under the proposal, there is no proposal before this Commission or either commission for doing that, is that right? That is a request of the shippers.

A. By the railroad.

Q. Not a request by the railroad.

A. Well, as I understand, you propose to put all rates in the group on the same basis.

Q. Or, we want that, we would like to see that done, but the railroads are not proposing to do that at this time, are they?

A. They are not proposing to do so in the suspended tariffs.

Q. Don't you think it would be more fair if when you are comparing an individual rate of one railroad if you showed the distance via that railroad?

A. I think this comparison is all right, Mr. Wilkinson.

Q. You think that is a fair comparison?

A. Yes.

Mr. Wilkinson: That is all.

Exam. Trezise: Any further questions?

[fol. 2166] By Mr. Hunter:

Q. Would you tell us why you think that is a fair comparison, Mr. Cholet? What is the distance via the line of the Milwaukee alone?

A. I was looking at the Illinois Central and the Milwaukee as 316 miles.

Q. Yes, but what is it via the Milwaukee alone?

A. Well, I don't have the figures before me.

Mr. Wilkinson: You just gave it as 237 from Brazil-Clinton to Rockford, I believe.

The Witness: No, I didn't say anything about Brazil-Clinton.

Mr. Wilkinson: Via the Milwaukee?

The Witness: I didn't say anything about Brazil-Clinton.

Mr. Wilkinson: I thought you gave that in answer to Mr. Morgan's question.

The Witness: He was talking about Brazil-Clinton, yes.

By Mr. Cardy:

Q. Just one question, Mr. Cholet. Do you know whether there has been any movement from the Boonville district to any of these points that you are complaining of?

A. Of my own knowledge, I don't know.

Q. So in so far as the rate is concerned, you don't know whether that rate, which is a published rate, whether it does you any real harm or not, or damage?

A. Well, of course, I don't know anything about the commercial situation.

[fol. 2167] Q. You don't know anything about the movement, all right. Now, as I understand it, all of your distances are taken from carriers' exhibits 3 or 4, is that right?

A. That is right.

Q. And that exhibit shows the detail—well, that is all.

Exam. Trezise: Mr. Cholet, if there is no movement of coal from the Boonville group to this destination territory, you wouldn't have any interest in what the rate is from the Boonville group, other than as it now stands, isn't that right?

The Witness: Well, we are, of course, interested in all these rates, Mr. Examiner.

Exam. Trezise: Well, your thought is that either there is some movement, there is a prospect of some movement, there must be something that compelled you to make the comparison with the Boonville group?

The Witness: Well, the carriers are proposing certain suspended rates which they say are just and reasonable rates, and I am making my Illinois comparison with those rates that they are proposing and which they say are just and reasonable rates.

By Mr. Cardy:

Q. Now, Mr. Cholet, isn't the only reason you picked out Boonville because in looking over carriers' exhibits 3 or 4 you found that their distance and rate was lower than the rates from Belleville to the same destination? Isn't that the only reason why you made that comparison? You [fol. 2168] said you don't know anything about the movement, and isn't that the only reason?

Mr. Stadell: I object to the question. The witness' testimony was that he picked not only Boonville, but Princeton and Linton-Sullivan?

Mr. Cardy: Well, I am talking about Boonville now.

Mr. Stadell: He has explained Boonville.

Mr. Cardy: Let him answer the question.

Exam. Trezise: Let him answer. He must have had some interest in these Indiana points of some kind, removed or otherwise, or he wouldn't have selected them.

Mr. Cardy: I want to know if he had any other interests outside of merely looking at the tariff, if he had any other influence outside of an examination of these exhibits.

The Witness: Well, of course, our organization represents shippers in the Belleville and DuQuoin groups, and we would like to see our rates on a proper relationship.

Mr. Cardy: I agree with you on that, but that isn't the answer.

Mr. Stadell: Now, let the witness answer.

Mr. Cardy: Well, he hasn't answered it.

Mr. Stadell: I object to the interruption and I insist the witness be allowed to finish his answer.

Exam. Trezise: Did you finish your answer, Mr. Cholet?

The Witness: Yes, I finished my answer.

[fol. 2169] Mr. Cardy: Well, you haven't answered it yet.

The Witness: Well, what is your question then?

By Mr. Cardy:

Q. I asked whether or not you had any additional information outside of an examination of the carriers' exhibits which prompted you to compare Boonville or take Boonville as a comparison, I mean as to the movement of coal to these destinations, or any other additional information outside of the mere fact that the distance from Boonville is greater than the distance from Belleville? Did you have any other additional information that prompted you to make this comparison?

A. Nothing other than what is shown in the carriers' exhibits.

Mr. Cardy: That is all.

By Mr. Vesey:

Q. You presumed, did you not, Mr. Cholet, that coal moved from all origin points into the suspended territory?

A. Why, I assumed that, yes.

Q. And you have no reason to date to change that assumption, have you?

A. No.

By Mr. Stadell:

Q. That assumption was based, was it not, Mr. Cholet, in considerable part upon the vigorous efforts of the Indiana interests to continue these low rates in effect from the Boonville group to the suspended territory?

Mr. Cardy: I object to that. You are assuming something. Just ask him what additional information he had. [fol. 2170] I object to your question.

Exam Trezise: Well, read this last oratory here.

(Question read.)

The Witness: Yes.

Mr. Stadell: In this proceeding.

Mr. Wilkinson: Just a minute. The Examiner hasn't ruled on the objection yet.

Exam. Trezise: There was an objection to the question, but I think I will let the answer stand now.

Mr. Wilkinson: Well, I don't like to have my rates characterized as low in a question and have the witness base it on a wrong premise, Mr. Examiner.

Mr. Morgan: You have to admit that is a fact.

Mr. Wilkinson: No, I don't.

Exam. Trezise: May the Examiner just ask a little question. I hope it is innocuous. You selected the Princeton group too, didn't you, when you made the comparison?

A. Yes, sir.

By Examiner Trezise:

Q. You selected the Linton-Sullivan Group, didn't you?

A. Yes, sir.

Q. You selected the Brazil-Clinton Group too, didn't you?

A. Yes, sir.

Q. Those are the principal groups in Indiana. You didn't select Boonville alone and hold it up as a horrible example [fols. 2171-2173] or something *or something*. You selected all of them for what they may show, is that true or not?

A. That is true.

. . . . . .

[fol. 2174] Morrison Hotel, Chicago, Illinois,
October 2, 1943.

Hearing resumed pursuant to adjournment at 9:30 o'clock a. m.

Before R. N. Trezise, Examiner; W. C. Kaylor, Illinois Commerce Commission.

APPEARANCES:

As heretofore noted.

Exam. Trezise: All right, gentlemen, when you are ready we will proceed.

Mr. Vesey: Mr. Christiansen.

Exam. Trezise: Be sworn, Mr. Christiansen.

A. J. CHRISTIANSEN was sworn and testified as follows:

Direct examination.

By Mr. Vesey:

Q. Please state your name, address and occupation.

A. A. J. Christiansen, 310 South Michigan Avenue, Chicago, Illinois. I am Assistant Secretary and Manager of Middle States Fuels, Incorporated, and Secretary of the Northern Illinois Coal Trade Association.

Mr. Vesey: If the Examiner please, I intended to say this before I asked the first question. The testimony [fol. 2175] which Mr. Christiansen is giving in this proceeding here will be identical with the testimony which he will give in Docket 28888. In view of that fact and to save time, to avoid repetition, I am going to ask that the reporter be directed to so keep her notes that when we reach Docket 28888, this testimony may be shown again as the testimony in Docket 28888. It is just in the interests of time only.

Mr. Zoll: Mr. Examiner, that would amount to an incorporation of this in 28888, and I would like to ask you to reserve passing on that until Mr. Biaett gets here.

Exam. Trezise: Yes. That will be in the other proceeding, so when you come to that, we will have to pass upon it at that time.

Mr. Vesey: I just wanted to make provisions for it here so that when the time comes in 28888, Mr. Examiner, that I put Mr. Christiansen on the stand and then I ask at that time that his direct and cross-examination——

Exam. Trezise: It may be that all the parties would agree.

Mr. Vesey: With the right to the other parties to elaborate on their cross-examination; just for the purposes of saving time, that is all.

Mr. Stadell: Do you understand by that that this will constitute his entire evidence in 28888?

Mr. Vesey: That is right.

Mr. Stadell: Direct evidence?

[fol. 2176] Mr. Vesey: That is right. I tried to prepare it so as to keep within the issues in both cases.

Mr. Cardy: Mr. Vesey, will you make a statement to let the record show that Mr. Christiansen is testifying on behalf of the Medusa Portland Cement Company, one of the complainants in the Dixon case, and also the Northern Illinois Coal Corporation? Will you make that statement or will I have to ask Mr. Christiansen that question?

Mr. Vesey: I think you had better ask him that question.

Mr. Cardy: All right, at the proper time I will.

By Mr. Vesey:

Q. How long have you been connected with Middle States Fuels, Incorporated, and the Northern Illinois Coal Trade Association?

A. I have been connected with Middle States Fuels, Incorporated, since 1939, the year the corporation began operation, and I have been Secretary of the Northern Illinois Coal Trade Association since 1937.

Q. What is Middle States Fuels, Incorporated?

A. Middle States Fuels, Incorporated, is a Delaware corporation organized for the purpose of marketing the bituminous coals produced in the Fulton-Peoria producing field of Illinois. It was organized pursuant to the authority conferred under Section 12 of the Bituminous Coal Act of 1937 and was approved by the Bituminous Coal Division. The coal producing companies whose coals were sold through Middle States Fuels, Incorporated, are set forth in [fol. 2177] our petition of intervention in Illinois Commerce Commission Docket No. 30935, which proceeding has been consolidated with Dockets 28881 and I. & S. 5139.

On August 24, 1943, following the expiration of the Bituminous Coal Act of 1937, as amended, Middle States Fuels, Inc., cancelled its contracts with its producer-members and entered into new contracts with them providing for the furnishing of certain statistical reports, marketing analyses and freight rate studies and reports. Hence, in so far as this proceeding is concerned, it serves as a means of expressing the views of its stockholder members with respect to the establishment of just and reasonable rates by rail carriers for the transportation of their coals.

Q. What is the Northern Illinois Coal Trade Association?

A. It is a voluntary, unincorporated association organized for the purpose of protecting the interests of its members and, in so far as this proceeding is concerned, it serves as a means of consolidating and expressing the views of its members with respect to the establishment of just and reasonable rates by rail carriers for the transportation of its members' coals.

Mr. Cardy: Now, Mr. Vesey, at this time can I just ask Mr. Christiansen one question?

Mr. Vesey: Yes, sir.

By Mr. Cardy:

Q. Mr. Christiansen, in addition to the companies or associations that you represent in this proceeding, do you [fol. 2178] represent any other companies so far as your testimony in this proceeding is concerned?

A. I appear on behalf of the Medusa Portland Cement Company at Dixon, Illinois, complainants in Docket, Illinois Commerce Commission Docket No. 30——

Q. 935.

A. 30935; and I also appear on behalf of the Northern Illinois Coal Corporation, which is a member of the Northern Illinois Coal Trade Association.

Q. And that company operates a mine at what point?

A. At Wilmington, Illinois.

Q. In the Northern Illinois Group?

A. Yes, sir.

Mr. Cardy: Thank you.

By Mr. Zoll:

Q. Is Illinois Commerce Commission Docket 30935 the complaint case, or is that the case involving the suspension of the state rates? I may be wrong. I thought you had the wrong number.

A. No, it is 31295, is the docket number.

By Exam. Trezise:

Q. What is 31295?

A. That is the Dixon Chamber of Commerce complaint.

Exam. Trezise: All right, let's proceed.

By Mr. Vesey:

Q. Mr. Christiansen, are you familiar with the freight rates which apply on bituminous coal moving from the several origin groups, that is, Indiana, Illinois and Western [fol. 2179] Kentucky—to the affected and compared territority involved in these proceedings?

A. I am.

Q. Will you please state for the record, Mr. Christiansen, your experience in the transportation field in so far as freight rates are concerned?

A. In November, 1915, I was employed by the Santa Fe Railroad in its operating department, which position I held until December, 1916. I resigned from the Santa Fe in December, 1916, and began working for the Rock Island Railroad in its operating department on the Illinois Division. During a part of the period which I was employed by the Rock Island, I acted as a local freight agent and gave considerable study to the matter of freight rates, including freight rates on bituminous coal in the Illinois Freight Association territory. In May, 1919, I resigned from the Rock Island Railroad to accept a position as Assistant Traffic Commissioner in the Traffic Bureau of the Davenport Chamber of Commerce at Davenport, Iowa. I remained in that position until January 1, 1928, at which time I resigned to become Traffic Manager of the Traffic Bureau of the Moline Association of Commerce at Moline, Illinois. On November 1, 1937, I resigned from the Moline Association of Commerce to accept the position of Secretary and Traffic Manager of the Northern Illinois Coal Trade Association at Chicago, Illinois, which position I still hold.

[fol. 2180] In 1938, Middle States Fuels, Incorporated, was organized as a sales company for the marketing of bituminous coal produced in the Fulton-Peoria field in Illinois and this organization began operation in 1939 and I was appointed Assistant Secretary and Manager, which position I still hold.

From 1919 to date I have been actively engaged in handling traffic and transportation matters before the Interstate Commerce Commission, the Illinois Commerce Commission, Board of Railroad Commissioners of the State of Iowa, concerning many commodities and with particular reference to bituminous coal in this Illinois, Indiana and

Western Kentucky coal producing territory, both as to producers and as to consumers. I have appeared as a witness in many proceedings and have also handled the preparation and presentation of the evidence in many cases involving transportation problems with particular reference to freight rates and their adjustments on bituminous coal before the Interstate Commerce Commission and other regulatory bodies.

Q. What experience have you had in marketing bituminous coal?

A. Since Middle States Fuels, Incorporated, began operation in 1939 and up to August 23, 1943, I have supervised the sale and distribution of all the coals produced in the Fulton-Peoria district by those companies listed in the intervening petition filed by us in Docket 31295. Every contract covering the sale of coal was personally approved by me and every invoice billing the customer for the purchase of coal of these companies passed through my office. [fol. 2181] Q. Are you familiar with the various grades and sizes of bituminous coal produced in Illinois, Indiana, Western Kentucky and Iowa?

A. Yes.

Q. Do you know the markets in which those coals are normally sold and delivered?

A. Yes.

Q. Are you familiar with the several transportation methods and systems usually employed in the distribution of these coals?

A. Yes.

Q. Have you examined and studied the tariffs issued by the rail carriers covering the movement of bituminous coal from the various origin groups in Illinois, Indiana, Western Kentucky and Iowa to the markets in which they are normally sold and distributed?

A. Yes. I have kept myself advised on that subject for the past 25 years.

Q. Are you familiar with the various freight rate changes and adjustments that have been made in bituminous coal freight rates on Indiana, Illinois, Western Kentucky and Iowa coals during the past 25 years?

A. Yes.

Q. Have you read and are you familiar with the various opinions and orders of the Interstate Commerce Com- [fol. 2182] mission and the Illinois Commerce Commission

affecting freight rates on bituminous coal from origins in Illinois, Indiana, Western Kentucky and Iowa?

A. Yes.

Q. Will you please tell us what is the Fulton-Peoria district and by that I mean what producing areas or fields are embraced within it?

A. The Fulton-Peoria producing district is composed of the mines located in Fulton, Peoria, Knox, Henry and Tazewell Counties in Illinois. These counties form a unified coal-producing district or area in the northwestern part of the state of Illinois. In other words, it is a coal mining district similar to such districts or groupings as Southern Illinois, Springfield, Belleville, Northern Illinois, Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire, Boonville or Western Kentucky.

Q. With respect to the movement of coal from the Fulton-Peoria district to the destinations in the affected territory involved in this proceeding, will you tell us whether or not those coals move on the same rates in the several tariffs issued by the carriers?

A. They do not.

Q. Confining your attention to the territory in Northern Illinois, Eastern Iowa and Southern Wisonsin, will you please explain the differences that exist in the rates from the several mines or groups of mines in the Fulton-Peoria [fol. 2183] District and in general terms the reasons therefor?

A. Although the Fulton-Peoria district is a unified coal producing district in so far as coal production is concerned, it embraces several districts which are treated separately in so far as the construction of freight rates is concerned to certain territories, in particular short-haul territories. The Fulton-Peoria district is composed of what is sometimes called the Alpha-Atkinson district in Henry County, the Fulton County district in Fulton and Peoria Counties, the Peoria district in Peoria and Tazewell Counties, and the Victoria district in Knox County. To shorthaul points, such as Davenport, Iowa, Moline and Rock Island, Illinois, Atkinson and Alpha have lower rates than Fulton County. To some destinations in northern Illinois, Peoria has lower rates than does Fulton County, and from Victoria, Illinois, to certain destinations the CB&Q Railroad has seen fit to voluntarily establish rates lower than those in effect from the Fulton County district to destinations on their own

line. There are instances where the rates from Fulton County to shorthaul destinations are lower than the rates from Peoria to the same destinations and there are even rates within Fulton County where the mines in Fulton County have rates from each mine that are different from other mines in the same county.

This is also true of the Springfield district, the Southern Illinois district and the Belleville district to their shorthaul territory. In other words, each producing district has varying rates to points close to that district.

[fol. 2184] This can best be illustrated by taking the Springfield or the Central Illinois district, which is a very large producing district, extending from Lincoln on the north, which is near Peoria, to Edwardsville on the south, which is near East St. Louis, Illinois, and examining its rate to a destination which would be considered a shorthaul in so far as the Springfield district is concerned, for example, Bloomington, Illinois. The present rate from Decatur to Bloomington is 92 cents, from Springfield to Bloomington, 99 cents; from Taylorville to Bloomington, $1.25; from Mt. Olive to Bloomington, $1.52; or, taking another point such as Decatur, Illinois, which is also shorthaul in so far as the Springfield producing district is concerned, at this destination the rates from the Springfield district vary from 67 cents to as high as $1.20 per ton. However, to destinations beyond the short-haul territory the rates from these origin points become uniform.

Q. Confining your attention now to the affected territory where there are changes proposed in the rates from the Fulton-Peoria district to certain northern Illinois destinations, will you please explain the differences which exist in the rates from the several mines or groups of mines in the Fulton-Peoria district and the reasons therefor?

A. To the affected territory in the northern part of the state of Illinois, there is some variation in the rates on bituminous coals from the Fulton-Peoria district as I have [fol. 2185] outlined that district.

From Atkinson, Illinois, the most northerly point in the Fulton-Peoria district, the rates to every destination to which changes are proposed by the carriers in the Northern Illinois territory are the same, or higher than the rates from Fulton County. From Alpha, Illinois, which is a local point on the C. B. & Q. Railroad in Henry County, and is the closest point of origin on that railroad to the destinations

involved in this proceeding, the rates are the same as from Fulton County to every destination where a change is proposed in the rates from Fulton County except to the destination of Amboy, Illinois. In other words, to that one destination no change is proposed in this proceeding from Alpha, although there is a change proposed from Fulton County. The rate from Alpha to Amboy of $1.05 for an 88-mile haul was prescribed by the Illinois Commerce Commission in 1925 in Docket 13572 as a reasonable maximum rate.

From Victoria, Illinois, located on the Galesburg and Great Eastern Railroad and connecting with the C. B. & Q. Railroad at Wataga, Illinois, the rates are 5 cents lower than the rates from Fulton County to certain destinations on the C. B. & Q. Railroad. At the time the mine was opened in 1936 the C. B. & Q. Railroad saw fit to voluntarily establish lower rates from Victoria than those in effect from the Fulton County district to some destinations on its own line. [fol. 2186] The rates from Victoria to all joint-line points are the same as the rates from Fulton County.

From Peoria, Illinois, there are lower rates to a few destinations than the rates from Fulton County, and, to other destinations, particularly destinations on the C. B. & Q. Railroad, the rates from Peoria, Illinois, are higher than are the rates from Fulton County. However, to most destinations in the affected territory, the rates from Peoria are the same as the rates from Fulton County.

Q. Confining your attention to the destinations in the compared territory in southern Wisconsin, are the rates from Alpha, Atkinson, Victoria, Peoria and Fulton County the same?

A. Considering that Beloit, Wisconsin, is improperly described as a point in the compared territory, whereas it is actually a point in the affected territory, the rates to Wisconsin destinations from the points of origin which we call the Fulton-Peoria district, Alpha, Atkinson, Victoria, Fulton County, are the same to all destinations. To Beloit, Wisconsin, if it is to be called a point in the compared territory, the rates from all the origin points in the so-called Fulton-Peoria district are the same except from Atkinson. From Atkinson, the rate is 14 cents a ton higher than the rate from Fulton County, although it is the closest point of origin to Beloit, Wisconsin. The mileage from Atkinson to Beloit is 133.9 miles, and the rate $1.94. The rate from

[fol. 2187] the Fulton County district is $1.80, with a mileage via short tariff route of 169.1 miles. Thus, as an illustration, Atkinson, when compared with Fulton County on coal to Beloit, Wisconsin, has a 35.2 miles shorter haul, but a 14 cent per ton higher rate. The incongruity of the Fulton-Peoria rate at Beloit and in the affected territory will be shown in full detail in exhibit form.

Q. To destinations covered by the Interstate Commerce Commission and Illinois Commerce Commission suspension orders, should or should not the Fulton-Peoria district, as you have described it, in your opinion be treated as a single origin group in so far as these proceedings are concerned?

A. Where the present rates from the various points of origin in the Fulton-Peoria group are the same or higher than the rates from Fulton County to a given destination, such points of origin should be treated as a single origin group, and all should be included in ascertaining the mileages to be used in measuring the level of rates or in prescribing a new level of rates.

Q. In the preparation of your mileage studies and other computations, have you treated the mines in the Fulton-Peoria group, as you have described it, as a single origin group?

A. Yes. In the preparation of our mileage studies we have made calculations as to average mileages via two methods. First, we have treated all of the origin points in the Fulton-Peoria group as I have described it and have [fol. 2188] found the average mileages to each destination using all of these origin points. We have made another calculation using the so-called Fulton-Peoria going rate as the basis for ascertaining what origin points to use. In other words, if an origin point had the same rate as Fulton County, that origin point was included in ascertaining average mileages. We figured the mileages using the so-called short tariff routes, which includes each origin point as often as it appears on different origin lines, and also via the shortest tariff routes using each origin point only once.

Q. Directing your attention for the moment to the Northern Illinois producing district, are the rates to the destinations in the affected territory the same from all of the origin points in the Northern Illinois group?

A. They are not.

Q. Will you amplify your answer, please?

A. The Northern Illinois coal producing district is the closest origin group to the destinations in the affected territory and to most of these destinations there is a variation in rates from the different origin points. In fact, I doubt if there is a single destination in the affected territory where the rates are the same from all points of origin in the Northern Illinois group. Hence the rates from the Northern Illinois group to the destinations in the affected territory are actually short-haul rates.

Q. In connection with the variations in rates to the desti-
[fol. 2189] nations in the affected territory from the different origin points in the Fulton-Peoria group, isn't it also a fact that there are variations in the rates from certain of the origin groups in Indiana to these same destinations?

A. Yes, for example, from the Brazil-Clinton group in Indiana and from the Linton-Sullivan group in Indiana, the rates from the origin points on the Milwaukee Railroad are 17 cents a ton lower than the rates from the origin points of other railroads to the destinations in the affected territory. Both the Brazil-Clinton and the Linton-Sullivan groups in Indiana have at least two different rates to many of the destinations in the affected territory.

Q. Have you prepared certain exhibits for introduction in these proceedings?

A. Yes, sir.

Q. Were these exhibits prepared under your supervision and direction?

A. They were.

Q. Now, Mr. Christiansen, will you please take your exhibits and identify them so that we may number them in accordance with the numbers as shown on the preceding exhibits introduced in evidence in this proceeding.

A. What is our next number?

Exam. Trezise: 77.

Mr. Vesey: I think we might just as well identify these
[fol. 2190] off the record as well as on the record.

Exam. Trezise: Yes, I thing that would be better.

(Discussion outside the record.)

(Exhibits 77 to 91, both inclusive, Witness Christiansen, marked for identification.)

Exam. Trezise: All right, proceed.

By Mr. Vesey:

Q. Are these exhibits, Mr. Christiansen, true and correct, to the best of your knowledge and belief?

A. They are.

Q. And do they truly show that which the purport to show?

A. They do.

Mr. Vesey: I offer the exhibits in evidence; Exhibits Nos. 77 to 91, inclusive.

Mr. Zoll: As I understand, these are received in evidence as they are taken up and discussed on the record.

Exam. Trezise: When they are identified and described. I have stated a couple of times that in a case such as this it is rather agreed that when they were identified and described, that they would be shown as received in evidence, unless they were later rejected for some reason.

Mr. Vesey: They are in evidence unless a motion to strike is subsequently made and sustained.

Exam. Trezise: Yes.

By Mr. Vesey:

Q. Referring to your Exhibit No. 77, will you please explain this exhibit?

[fol. 2191] A. Exhibit No. 77, identified by code reference mark N-260 in the lower lefthand corner, and consisting of 10 pages, shows the mileages from Northern Illinois origin points to certain destinations in the Northern Illinois territory to which rates are suspended in these proceedings. It also shows the present rate on bituminous coal from each of the origin points to each of the destinations via each route. At the time all of these exhibits were prepared certain increases authorized in Ex Parte 148 were in effect, and the exhibits indicate that the rates shown are, in all instances, without Ex Parte 148 increases. However, since May 15, 1943, the increases have been eliminated and, therefore, the rates shown in the exhibit are the present rates which are now in effect, unless they are indicated otherwise, as are, for example, the suspended rates.

On page 1 of this exhibit is a recapitulation of the average mileages via short tariff routes and shortest tariff routes to each of the destinations shown in the exhibit, and there are also shown under the rate column the various rates which are in effect from the Northern Illinois origin points

to each of the destinations. On pages 2 to 7, inclusive, are shown the specific rates and the specific mileages from each origin point to each destination via short tariff route, and a calculation is made at the bottom of each page for each of the destinations showing the average mileages via [fol. 2192] the short tariff routes and via shortest tariff routes.

I might explain at this time that the term "short tariff route" indicates that the origin point was used in securing the average mileages as often as it appeared on different railroads which serve that particular origin point via the shortest tariff route from that origin point via that carrier. The term "shortest tariff route" indicates that the origin point was only used once in ascertaining the average mileages from that group. This method of figuring mileages and the description of short tariff routes as against shortest tariff routes is uniform in all the exhibits to follow. Authority for the rate is shown and the route is shown by letters or symbols which are explained on pages 8, 9 and 10 of the exhibit.

Q. Why did you use the particular destinations shown on page 1?

A. I used them because they were selected by the carriers at the pre-trial conference held in Chicago on November 24, 1942.

(Exhibit 77, Witness Christiansen, received in evidence.)

By Mr. Vesey:

Q. Will you refer to your Exhibit No. 78 and explain it?

A. Exhibit No. 78, identified by code reference mark N-300 in the lower lefthand corner, shows the mileages from Northern Illinois producing district origin points to certain destinations in Illinois, Iowa, and Wisconsin which the carriers have termed "compared points." The mileages are shown via short tariff and shortest tariff routes. There [fol. 2193] are also shown the present rates which are now in effect from each of the origin points to each of the destinations.

On page 1 of the exhibit is a recapitulation of the mileages to each of the destinatons shown in the exhibit, showing the average mileages via short and shortest tariff routes and the rates which are in effect at the present time. The

recapitulation is made on two bases—the first group of averages using all points of origin in the Northern Illinois producing district, and the second group of averages using the Northern Illinois going rate. In our exhibits, when we refer to the "going rate," it is generally considered that this is the lowest rate in effect from one or more points of origin in the group to the specific destination. In other words, this is the rate which would move the business if any were to move. Just as a matter of illustration, it will be noted that to Davenport, Iowa, the average mileage via the short tariff route, using all points of origin, is 137.6 miles, and that there are two different sets of rates, one at $1.25 per ton and another at $1.74 on lump and $1.57 on fine coal. The $1.25 rate is the going rate and the one which would move the coal. The second group of mileages on page 1 shows the average mileages via short tariff routes from these origin points which have the $1.25 rate, and that mileage is 138.1 via the short tariff route. On pages pages 2 to 9, inclusive, is the detail of the mileages [fol. 2194] with the average shown at the bottom of the page to each of the destinations from each origin point in the Northern Illinois producing district.

The rate to Davenport, Iowa, of $1.25 was prescribed by the Interstate Commerce Commission as a reasonable maximum rate in Docket 21020, 197 ICC 301, dated November 13, 1933. The rate from the Northern Illinois origin group to Beloit, Wisconsin, as shown on page 2, of $1.40 per ton for a haul of 125 miles via short tariff route, or 121.7 miles via shortest tariff route, was prescribed as a reasonable maximum rate in Docket 20912 and I. & S. 3536, 174 ICC 545. The rate from the Northern Illinois origin group to Moline and Rock Island, Illinois, of $1.25 per ton as shown on pages 7 and 8, was prescribed as a minimum rate in Docket 23130, 182 ICC 572, 182 ICC 603, and 197 ICC 301. The Ex Parte 115 increase of 10 cents per ton has been added to the originally prescribed rate of $1.15 to obtain the present prescribed minimum rate of $1.25 per ton.

Q. Why did you select the particular destinations used in Exhibit 78?

A. Except for the destinations of Portage and Wausau, Wisconsin, the destinations are the comparative points selected by the carriers.

Q. Why did you add to the destinations to which you have just referred the destinations of Portage and Wausau, Wisconsin?

[fol. 2195] A. These destinations were used in order to reflect rate conditions in that territory in Wisconsin where Fulton-Peoria has a differential adjustment under Southern Illinois of 70 cents per ton.

(Exhibit 78, Witness Christiansen, received in evidence.)

By Mr. Vesey:

Q. Will you refer to your Exhibit No. 79 and explain that exhibit please?

A. Exhibt No. 79, identified by reference mark N-266 in the lower righthand corner, shows the mileages from each of the origin points in the Fulton-Peoria origin group to certain destinations in Northern Illinois to which the carriers propose increases in rates which are suspended under I. & S. Docket 5139 and Illinois Commerce Commission Docket 30935. The mileages are via short tariff and shortest tariff routes. The rates shown in the exhibit are the present rates now in effect. On page one is a recapitulation of the average mileages from the Fulton-Peoria origin group to each of the destinations, using, first, all points of origin in the group, and secondly, only the going rate origin points.

On pages 2 to 7, inclusive, is shown the detail for the mileage averages shown in the recapitulation. The averages are shown at the bottom of each page for each destination via short tariff route and via shortest tariff route, using all group origin points and also using only the going rate origin points. The going rate in each instance is [fol. 2196] shown in parentheses. For instance, to Amboy, Illinois, shown on page 2, the Fulton-Peoria going rate is $1.50 per ton, although there are rates in effect from certain Fulton-Peoria origin points of $1.05, $1.45, and $1.98 per ton.

The authorities for the rates and the routes are shown with the explanations on pages 8, 9 and 10.

The carriers, in figuring their mileages, divided the Fulton-Peoria origin group into several divisions. Atkinson, where there is only one mine, was segregated from the Fulton-Peoria group, although in every instance the Atkinson rate is as high or higher than the Fulton County rate, and

notwithstanding the fact that it is the closest point in the Fulton-Peoria group to the involved destination territory. The carriers in like manner segregated Alpha, and, as I previously explained, it has a lower rate than the Fulton-Peoria origin group to only one destination out of the 100 destinations involved in this proceeding. To the other 99 destinations Alpha has the same rate as the Fulton County mines.

Victoria was similarly treated by the carriers, although to all joint-line points Victoria has the same rate as Fulton County. To a few on-line destinations in the affected territory the C. B & Q. voluntarily established rates from Victoria 5 cents a ton lower than the rates from Fulton County.

The Peoria mines were also segregated by the carriers, [fol. 2197] although these mines have rates which, in some instances are lower and in some instances higher than the Fulton County rates to a few destinations, but in most instances the Peoria rates are the same as the Fulton County rates.

Where the rate is the same as the Fulton County going rate from any origin point, that origin point should be included in ascertaining the average mileages to use in measuring that rate. For instance, to Dixon, Illinois, shown on page 4, the rate from Alpha is $1.50 per ton, which is the same as the rate from Fulton County. Hence the Alpha mileage of 77.1 miles should be used in ascertaining the average Fulton-Peoria origin group mileage in determining whether the $1.50 rate from Fulton-Peoria group to Dixon, Illinois, is a reasonable maximum or a reasonable minimum rate. Our exhibits have been prepared accordingly. In other words, in ascertaining the Fulton-Peoria average mileage, as shown on line 41 on page 4, via short tariff route using the Fulton-Peoria going rate, the mileages from Alpha and Victoria were included. Atkinson, however, was not included, as it has a rate of $1.75 per ton or 25 cents per ton more than the going Fulton-Peoria rate. There is no justification for a higher rate from Atkinson to Dixon, Illinois, than from the Fulton-Peoria origin group to Dixon, and hence it should be included in ascertaining mileages to use in measuring the reasonableness of rates to Dixon.

[fol. 2198] (Exhibit 79, Witness Christiansen, received in evidence.)

Mr. Biaett: Are you going to argue the point now? Are we going to accept that as your opinion or argument?

By Mr. Vesey:

Q. Have you made any comparison studies showing the mileage differences resulting from the carriers' method of figuring mileages and your method of figuring mileages?

A. Yes.

Q. Have you prepared an exhibit showing such information?

A. I have.

Q. Will you please explain your exhibit?

A. Exhibit No. 80, identified by code reference mark N-329 in the lower righthand corner, is a comparison of the carriers' mileages and Middle States Fuels, Incorporated's mileages from the Fulton-Peoria origin group to the affected points in the Northern Illinois territory and Beloit, Wisconsin, showing the variations and differences. The destinations are shown under Column A. The carriers' mileages from the Fulton-Peoria origin group, excluding Atkinson, Victoria, Alpha and Peoria, are shown under Column B. Under Columns C, D and E are the mileages from the Fulton-Peoria origin group. The carriers' short tariff mileages are shown in Column C; Middle States Fuels, Incorporated's short tariff mileages are also shown in Column C. The difference between the carriers' short tariff mileages and Middle States Fuels, Incorporated's short tariff mile-[fol. 2199] ages are shown under Column F.

It will be noted that there is only a slight variation, the actual difference being only one or two miles except in the case of Rochelle, where the difference is 23 miles. Middle States Fuels, Incorporated's shortest tariff mileages are shown in Column E, and the difference between its shortest tariff mileages and the carriers' short tariff mileages as shown under Column C are shown in Column G. Here again it will be noted that the shortest tariff mileages vary from the carriers' short tariff mileages by only a few miles, the maximum being 4 miles, except in the case of Rochelle, Illinois, where the mileage was figured by Middle States Fuels, Incorporated, on a different basis than that used by the carriers. The carriers used the mileages via the C. B. & Q.

direct, whereas Middle States Fuels figured the mileages via C. B. & Q. Mendota and the Milwaukee. In the C. B. & Q. tariff Rochelle is directly intermediate to Rockford. There is no specific rate published from Fulton-Peoria to Rochelle via the C. B. & Q. Mendota and the Milwaukee. There is a rate published via this route to Rockford, Illinois, a station directly north of Rochelle, which is exactly the same as the rate to Rochelle via the C. B. & Q. direct. I therefore used this route in ascertaining the mileages to Rochelle, Illinois. Under the tariff naming the rates to Rockford, namely C. B. & Q. 15000-E, I. C. C. 19670, Illinois C. C. 2064, the rate applies via this route by intermediate appli- [fol. 2200] cation, and it is a route actually in effect today. Hence, it should be used in ascertaining the mileages to Rochelle for the purpose of determining a reasonable maximum rate to that point.

Under Column H is shown the carriers' short tariff mileages, using all the origin points which take the going rate from the Fulton-Peoria origin group. The present going rate is shown in Column M, and the suspended going rate is shown in Column N.

Under Column I is shown Middle States Fuels, Incorporated's short tariff mileages, using the going rate to ascertain the points to be used, and in Column J are shown Middle States Fuels, Incorporated's mileages via the shortest tariff routes.

Under Columns K and L are shown the differences Middle States Fuels, Incorporated, as against the carriers' mileages, and here again it will be noted that the variation is very little. The carriers' mileages shown in the exhibit were taken from their Exhibit No. 3. Their Exhibit No. 3 does not show the average mileages for the Fulton-Peoria origin group. They are shown for the Alpha, Atkinson, Victoria and Fulton County groups. I therefore added together the total mileages for all of these groups shown in the carriers' exhibit and made a calculation to ascertain the average, first using all the points in the Fulton-Peoria origin group, which [fol. 2201] are shown in Column C, and, secondly, using only those origin points which have the Fulton-Peoria going rate to ascertain the averages shown in Column H. It will be seen that the carriers' mileages, determined in the same manner as followed in our Exhibit No. 79, are virtually the same as ours, except in the case of Rochelle, Illinois.

(Exhibit 80, Witness Christiansen, received in evidence.)

By Mr. Vesey:

Q. Will you refer to your Exhibit No. 81 and explain it?

A. Exhibit No. 81, identified by code reference mark N-282 in the lower righthand corner, shows the mileage from each of the origin points in the Fulton-Peoria origin group to certain destinations in Illinois, Iowa and Wisconsin which the carriers have referred to as compared points. These mileages are via short tariff routes and shortest tariff routes. Beloit, Wisconsin, is shown in this exhibit although it is also a destination in the so-called affected territory, because changes are proposed to Beloit from certain mines in Indiana, and also it is subject to a complaint from the Fulton-Peoria district in Docket 28888.

On page 1 of this exhibit is shown the recapitulation of these mileages to the destinations shown via short tariff and shortest tariff routes and also via two methods of ascertaining averages—first, using all points in the origin [fol. 2202] group, and, second, using only those points which have the so-called Fulton-Peoria going rate, and by "going rate" I mean the rate which would move the coal from the Fulton-Peoria district if and when coal moved.

On pages 2 to 10 of the exhibit is shown the detail of the mileages from each origin point via each origin railroad to each destination. The calculations as to the average mileages are shown at the bottom of the page. Taking Beloit, Wisconsin, as a destination, shown on page 2, it will be noted that the average mileage, as shown on line 38 via short tariff route, is 168.1 miles and, as shown on line 39 via shortest tariff route, 167.7 miles. The average mileages shown on lines 38 and 39 are the averages for all of the origin points shown. On lines 40 and 41 are the average mileages, via short tariff and shortest tariff route, using the Fulton-Peoria going rate, which is indicated in parentheses.

To Beloit the going rate is $1.80 and applies from all Fulton-Peoria origin group points except Atkinson. The Atkinson rate is 14 cents higher, or $1.94 per ton, although its mileage is less than that of any other origin point in the Fulton-Peoria origin group. The mileage from Atkinson is 35 miles less than the average from the Fulton-Peoria origin group. Similar information is shown on pages 2 to 10, inclusive, for each destination.

The authorities for the rates, mileages and routes are [fol. 2203] shown on pages 11, 12 and 13.

The rates shown on page 4 to Davenport, Iowa, and on page 10 to Linwood, Iowa, were prescribed by the Interstate Commerce Commission in Docket 21020, 197 I. C. C. 301, dated November 13, 1933, as reasonable, maximum rates under Section 1 of the Interstate Commerce Act. The rates shown on page 7 to Moline, Illinois, and on page 8 to Rock Island, Illinois—these two destinations are across the Mississippi River from Davenport, Iowa—were prescribed by the Interstate Commerce Commission in Docket 23130, Intrastate Rates on Bituminous Coal between Points in Illinois, 182 I. C. C. 537, and 197 I. C. C. 301, as minimum rates under Section 13 of the Interstate Commerce Act. The rate which was originally prescribed to these destinations was $1.15 per ton, to which has been added the increase authorized in Ex Parte 115, making the present rate $1.25. This $1.25 rate, therefore, has been prescribed as a reasonable maximum rate under Section 1 of the Interstate Commerce Act to the Tri-Cities, consisting of the West Bank Mississippi River cities of Davenport, Bettendorf, Iowana and Linwood, Iowa, on the one hand, and the East Bank Mississippi River cities of Moline, Rock Island, East Moline, Silvis and Carbon Cliff, Illinois, on the other hand.

(Exhibit 81, Witness Christiansen, received in evidence.)

By Mr. Vesey:

Q. Please refer to your Exhibit No. 82 and explain that [fol. 2204] exhibit.

A. Exhibit No. 82, identified by code reference mark in the lower lefthand corner, shows the present and proposed rates and the amount of increase or decrease from the Fulton-Peoria origin group to all destinations in Northern Illinois to which changes are proposed in these proceedings from the Fulton-Peoria origin group via all routes. The tariff authorities are shown on the first page for each origin railroad which names rates. The towns are arranged in alphabetical order.

The exhibit is arranged to show the present and proposed rates and the increases or decreases by grouping Fulton County and Victoria under one column, Atkinson under another column and Peoria in the last column. Where Victoria or Alpha have a different rate than Fulton County, it is indicated by the letter "A" for Alpha and "V" for Victoria. The rates from Alpha and Victoria apply only from

the C. B. & Q. as an origin railroad. Victoria is on the Galesburg & Great Eastern Railroad and connects with the C. B. & Q. at Wataga, Illinois, but its rates are published by the C. B. & Q. Railroad.

The carriers' proposal for changes in rates results in many inconsistencies which are illustrated throughout this exhibit. On page 1 the first station is Adeline. The C. B. & Q. proposes a rate of $1.65 as against the present rate via all routes of $1.64, or an increase of 1 cent per ton. The C. & N. W. proposes a reduction from $1.64 to $1.60, or a [fol. 2205] 4-cent reduction. This 4-cent reduction is also proposed from Atkinson and Peoria.

To Algonquin, Illinois, the C. B. & Q., C. & N. W., and T. P. & W. propose a reduction from $1.89 to $1.80, or 9 cents per ton, from Fulton County mines and Victoria and Alpha. There is no proposed change from M. & St. L. mines, their rate remaining at $1.89, or 9 cents higher than from C. B. & Q., C. & N. W. or T. P. & W. origin points. From Peoria, as shown in the last column, the reduction proposed via the C. & N. W. as an origin railroad is from $2.05 to $1.80, or 25 cents per ton. However, from Atkinson, the closest point of origin in the Fulton-Peoria origin group, the present rate of $1.89, which is the same today as the Fulton County rate, is to be increased to $1.94, or an increase of 5 cents per ton. Today the Atkinson and Fulton County rates to Algonquin are the same. Under the carriers' proposal the Atkinson rate will be 14 cents per ton higher than the Fulton County rates. There are many other points where similar proposals are made, such as Carpentersville, Capron, Cary, Chemung, Dundee, and other destinations.

To Rockford and Freeport from M. & St. L. mines a 15-cent increase is proposed on lump coal, but no change is proposed on fine coal, whereas via other origin roads a 15-cent increase is proposed on all sizes.

The propriety of the carriers' proposal in so far as the Fulton-Peoria origin group is concerned can well be judged [fol. 2206] by a comparison of their proposed minimum rates under Section 13 of the Interstate Commerce Act. On Fulton-Peoria coals moving to Dixon, and on Northern Illinois origin group coals moving to Freeport, Illinois, the carriers propose a minimum rate of $1.55 per ton for Fulton-Peoria coals moving to Dixon for an average dis-

tance of 121.4 miles. Their proposed minimum rate for Northern Illinois origin group coals moving to Freeport is $1.25 per ton and the average distance is 125 miles. In other words, the carriers apparently believe that a proper minimum rate structure for Fulton-Peoria coals should be 30 cents per ton more for a haul of approximately the same length. Suffice it to say that Fulton-Peoria coal operators would smile at this proposal if it did not hurt so much.

Q. Do you know of any recognized formula for the establishing of just and reasonable rates on bituminous coal which would, if applied, result in the proposed increases which are under consideration in this proceeding?

A. I not only do not know of any such formula, but I am sure that there is none.

Q. Why are you sure that there is no formula which would, if applied, produce increases and decreases such as have been proposed by the carriers in this proceeding?

A. There is absolutely no consistency in the carriers' proposal in this proceeding. This fact is clearly shown in the illustrations which are set forth in my Exhibit 82, some [fol. 2207] of which I have just explained. Neither rate scales based on mileages nor considerations of transportation conditions justifies—

Mr. Biatt: Excuse me, just a minute, Mr. Christiansen.

By Mr. Biaett:

Q. I assume that when you are arguing about transportation conditions, you are stating your opinion?

A. The carriers stated they were similar.

Q. And your opinion only carries the weight which your qualifications to make that statement attach to it, is that correct?

A. I would say that is right.

Mr. Biaett: Which is none.

Mr. Vesey: I didn't get the last statement.

Mr. Biaett: Which is none.

The Witness: Neither rate scales—

Mr. Vesey: We thank you for your generosity, Mr. Biaett.

The Witness: Neither rate scales based on mileages nor considerations of transportation conditions justifies the several proposals of freight rate increases which have been made by the carriers in this proceeding.

(Exhibit 82, Witness Christiansen, received in evidence.)

By Mr. Vesey:

Q. Have you prepared an exhibit showing the history of the rates from the Fulton-Peoria and other origin groups to Beloit, Wisconsin, and Rockford, Illinois?

A. I have.

Q. Will you please explain this exhibit?

A. This Exhibit No. 83, identified by reference mark X-258 in the lower lefthand corner, is a history of the rates [fol. 2208] on bituminous coal from the Northern Illinois, Fulton-Peoria, Southern Illinois and Brazil-Clinton, Indiana, origin groups to Beloit, Wisconsin, and Rockford, Illinois, from July 19, 1925, up to the present time. It also contains a copy of the announcement of the Director of Traffic, M. V. Hardie, of the Interstate Commerce Commission, made in I. & S. Docket 2346, and a map showing the present differential adjustment between Southern Illinois, on the one hand, and Fulton-Peoria, on the other hand, to the territory, including Illinois, Iowa, Wisconsin and Minnesota.

(Exhibit 83, Witness Christiansen, received in evidence.)

The Witness: In 1925 the carriers attempted to correct numerous discrepancies and maladjustments between destination points, including certain 4th Section departures, and to restore certain differentials between origin groups which were disrupted by the general increases in freight rates on bituminous coal in 1920 and the general reductions in 1922. They published a tariff known as the "Blue Book," which was suspended in I. & S. Docket 2346. Several conferences were held between shippers, consumers, and the carriers with the Interstate Commerce Commission. As a result of these conferences the agreement set forth in the Hardie Announcement, which is reproduced on pages 1, 2 and 3 of this exhibit was effected.

On page 4 of the exhibit is shown a map of the territories [fol. 2209] of Illinois, Iowa, Wisconsin and Minnesota on which we have shown the differential adjustment between Northern Illinois-Fulton-Peoria and Southern Illinois to the various destination territories. To the territory in Wisconsin and Minnesota and Northeastern Iowa above the wide checkered line, including the points within the wide checkered line, the differential Fulton-Peoria under Southern Illinois was made 70 cents.

Mr. Biaett: Excuse me just a minute.

By Mr. Biaett:

Q. To what territory is that?
A. It is Wisconsin.
Q. Wisconsin?
A. Minnesota.

Mr. Biaett: Mr. Examiner, I object to these statements on the grounds that territory which he is discussing is beyond the scope of these proceedings for the first reason; and for the second reason, that the differentials between Fulton-Peoria and Southern Illinois are not involved in these proceedings.

Mr. Vesey: Oh, if the Examiner please, I think we have covered that in the preceding pages of Mr. Christiansen's testimony. He gave Indiana exhibits showing the differential relationship against Southern Illinois in this territory here. If the Commission is to be given a complete picture of these differential relationships, I know of no other way than to set them forth on the map.

[fol. 2210] Mr. Biaett: Well, Indiana has an interstate case here in I. & S. 5139 that Fulton County does not have. Your situation is dealing purely with the 13th Section case, as I understand it.

The Witness: Mr. Kuhls showed them in his exhibit. I don't know why I can't.

Exam. Trezise: So much of that has already been shown it would be improper for the Examiner to rule it out now. I don't know whether it belongs in here or not but it has already been put in two or three times and referred to, so I think that we will just have to let it go in now.

By Mr. Vesey:

Q. Will you proceed.

A. To the territory in Wisconsin and Minnesota and Northeastern Iowa above the wide checkered line, including the points within the wide checkered line, the differential Fulton-Peoria under Southern Illinois was made 70 cents. The Northern Illinois differential under Southern Illinois in Wisconsin north of the wide checkered line was also fixed at 70 cents. These differential adjustments in Wisconsin were based upon the fact that for the longer hauls to this territory the difference in distance as between Fulton-Peoria, on the one hand, and Northern Illinois, on

the other hand, would not support different differential adjustments, hence they were made the same. To the territory on the map in the southwestern part of Wisconsin,—

Mr. Biaett: Excuse me just a minute. I don't understand [fol. 2211] that question. It sounds like it is purely argumentative as to how a differential adjustment was made.

Mr. Vesey: If the Examiner please, it is a statement of fact and Mr. Biaett—

Mr. Biaett: It is not a statement of fact.

Exam. Trezise: The only objectionable word I can see is "hence." If you want to strike out the word "hence," you can say they were made the same. That was a fact.

Mr. Biaett: I don't care about his using "hence." What I object to his stating is what they were based upon. That is not the fact.

Exam. Trezise: Yes, he stated they were based in a certain way. He is their witness testifying. He can testify to anything. You can cross examine him; if it is pertinent to the case.

Mr. Biaett: All right.

By Mr. Vesey:

Q. Will you proceed, Mr. Christiansen.

A. To the territory on the map in the southwestern part of Wisconsin, which is shown by diagonal shaded lines, the Fulton-Peoria origin group was made 79 cents under Southern Illinois and the Northern Illinois origin group was made $1.00 under Southern Illinois, thus reflecting a fundamental principle in freight rate making that as mileage decreases differentials or differences increase. This territory included Beloit, Wisconsin, located just north of the Illinois-[fol. 2212] Wisconsin state line.

The same principles were followed by the Interstate Commerce Commission in relating the Fulton-Peoria origin group to the Southern Illinois origin group at destinations in Iowa. In Docket 26558, decided in 232 ICC 5, the Southern Illinois rate to the northeastern and eastern part of the state of Iowa was made 70 cents over Fulton-Peoria. This case was decided November 21, 1938.

The differential relationship between the Fulton-Peoria origin group and the Southern Illinois origin group in the territory comprising the southwestern part of Wisconsin, including Beloit, remained as fixed in the 1925 agreement

until October 27, 1933. On October 27, 1933, this adjustment was disrupted at Beloit, Wisconsin, only by a peculiar chain of circumstances. However, some explanation is required for a full understanding.

In 1925 when the 79-cent differential Fulton-Peoria under Southern Illinois was agreed upon, the freight rate from Southern Illinois to Beloit was $2.75. The Hardie Agreement provided for a minimum rate of $1.90 from the Fulton-Peoria origin group to Beloit—

Mr. Stadell: I object to that, Mr. Examiner. He is talking about an agreement here, a so-called agreement; and there is no evidence at all that the parties to this proceeding were ever a party to any such agreement as he [fol. 2213] has referred to; and he is also referring to the fact that in that agreement, that agreement provided for a minimum rate of $1.90 from the Fulton-Peoria origin group to Beloit. There is nothing that I can find in the agreement, or so-called agreement that he has attached as a part of his Exhibit 83, that provides for a minimum rate.

Mr. Vesey: Mr. Christiansen, instead of referring to it as the "Hardie Agreement," will you refer to it, please, as the "Hardie Announcement," so that we won't have any implications in the record that someone agreed to that.

Exam. Trezise: You wish to change that to "announcement," you say?

Mr. Vesey: Yes, wherever it appears in his prepared statement as "agreement," may we have it understood that the reporter will show it in her permanent record as "announcement."

Exam. Trezise: That is sufficiently shown in the exhibit here? I think we will let that go in.

Mr. Vesey: Proceed.

Mr. Stadell: With that modification?

Exam. Trezise: With that modification, yes.

The Witness: The Hardie Announcement provided for a minimum rate of $1.90 from the Fulton-Peoria origin group to Beloit even though it provided for the 79-cent differential, which thus resulted in a going rate of $1.96, or 6 cents over the announced minimum. In the Fairbanks-Morse case, Docket 25419, the Interstate Commerce Commission pre- [fol. 2214] scribed destination differentials on coal between Rockford, Illinois, and Beloit, Wisconsin. This destination differential was fixed at 25 cents per ton pursuant to the

provisions of Section 3 of the Interstate Commerce Act. To effectuate this direction by the Interstate Commerce Commission the carriers reduced the rates to Beloit from all other origin groups except the Fulton-Peoria origin group and established the rates at levels which would preserve the then-existing differentials between such origin groups and Southern Illinois. There was nothing in the ICC decision in the Fairbanks-Morse case to warrant this discrimination by the carriers against the Fulton-Peoria origin group. Nevertheless, in so far as Fulton-Peoria is concerned, the carriers chose to disregard the fixed differential relationship between Fulton-Peoria and Southern Illinois and merely reduced the rate from Fulton-Peoria to Beloit from $1.96 to $1.79 per ton, or a reduction of 17 cents per ton instead of the 50-cent per ton reduction accorded Southern Illinois and other origin groups. Hence, the differential for Fulton-Peoria under Southern Illinois by this action was decreased from 79 cents to 46 cents per ton, a reduction in the differential relationship of 33 cents per ton.

Had the carriers chosen at this time to apply the same principles of freight rate making in the Fulton-Peoria origin group to the destinations of Rockford and Beloit which [fol. 2215] they accorded to the other Illinois origin groups, namely, the preserving of the fixed differentials, Fulton-Peoria would have been accorded a 50-cent per ton reduction in its freight rate to Beloit and the destination differential of 25 cents per ton between Beloit and Rockford would have resulted in a corresponding reduction of the rate from Fulton-Peoria to Rockford, and the Fulton-Peoria operators would have been relieved of the almost continuous freight rate controversies involving this territory, which have continued down to today.

One year later the carriers voluntarily made an attempt to correct the injustice visited upon Fulton-Peoria in their tariffs of October 27, 1933. On November 29, 1934, they reduced the Fulton-Peoria rate to Rockford from $1.54 per ton to $1.40 per ton, which occasioned a corresponding reduction in the Fulton-Peoria rate to Beloit. As a result of this action, the differential relationship between Fulton-Peoria and Southern Illinois was increased from 46 cents per ton to 60 cents per ton and it has remained at this figure since that time. The action of the carriers in this

instance was occasioned by the filing of a tariff by the M. & St. L. Railroad for an increase in its freight rate from the Fulton-Peoria origin group to Rockford. The M. & St. L. rate was at that time $1.40 per ton, and they sought to increase it to $1.54, which latter rate was in effect by other carriers serving the Fulton-Peoria origin group. Strenuous objection to this proposal was made and, in addi- [fol. 2216] tion, a complaint against the Rockford rate of $1.54 was filed with the Illinois Commerce Commission by certain producers in the Fulton-Peoria origin group. The M. & St. L. proposed rate increase was suspended by the Illinois Commerce Commission, but before a determination was made the carriers voluntarily made the reduction above referred to in the Rockford rate of 14 cents per ton, thus establishing a rate of $1.40 for all carriers serving the Fulton-Peoria origin group on coal moving to Rockford.

Thus as a result of the action of the carriers growing out of the Fairbanks-Morse case in 1933, and the readjustment in 1934, the Fulton-Peoria origin group suffered a 19-cent per ton reduction in its differential relationship with Southern Illinois fixed in the Hardie Announcement in 1925, and instead of having a 79-cent differential under Southern Illinois at Beloit, it came out of these proceedings with a 60-cent differential. Correction of this inequity should now be made before any further consideration is given to the freight rate increases requested by the carriers in their 13th Section petition, and before any further attempt is made to relate the rates on coal moving from Illinois and Indiana origin groups to Rockford, so as to establish destination differentials between Rockford and Beloit as prescribed in the reopened Fairbanks-Morse case, Docket 25419. As an aid to the bringing about of this result, the complaint in Docket 28888 was filed by the Fulton-Peoria [fol. 2217-2219] producers.

In this connection I want to call attention to the fact that Fulton-Peoria, in the movement of coal to Beloit, Wisconsin, by virtue of the 1933 and 1934 adjustments, not only suffered a reduction in its 1925 differential in so far as Southern Illinois was concerned, but also suffered the same loss in differential relationship in so far as all other origin groups are concerned.

By Mr. Vesey:

Q. You stated, Mr. Christiansen, that the Hardie Announcement provided for a minimum rate from Fulton-Peoria to Southern Wisconsin destinations of $1.90 per ton. You further stated that the carriers, as a result of the Fairbanks-Morse decision in Docket 25419, reduced the Fulton-Peoria rate to Beloit from $1.96 to $1.79 per ton, and in 1934 to $1.65 per ton. Will you please tell us what effect should, in your opinion, be given the minimum rate prescription in the 1925 announcement of $1.90 per ton on coal moving from the Fulton-Peoria origin group to Beloit, Wisconsin?

A. The minimum rate from Fulton-Peoria to Beloit of $1.90 provided for in the 1925 announcement was predicated upon a rate of $2.75 per ton applying from Southern Illinois to Beloit.

* * * * * * *

[fol. 2220] By Mr. Vesey:

Q. Proceed, Mr. Christiansen.

A. The minimum rate prescription cannot be observed if substantial reductions are made by the carriers in the rates from Southern Illinois and other origin groups. Changing conditions naturally require changes in rates. They do not require changes in differential relationships once proper differentials are established.

On pages 6 and 7 of my Exhibit 83 I have shown the freight rate changes which have occurred since 1925 to Rockford and Beloit.

Q. Have you prepared an exhibit showing car-mile earnings of coal as compared with the car-mile earnings of other commodities between the Fulton-Peoria district and Beloit, Wisconsin?

A. I have.

Q. Will you please explain this exhibit?

A. Exhibit No. 84, identified by code reference mark N-274 in the lower left-hand corner, is a statement comparing the average revenue received per car and per car-mile on bituminous coal with other commodities moving between the Fulton-Peoria district at Beloit, Wisconsin.

[fol. 2221] The revenue per car on the present Fulton-Peoria rate of $1.80 per net ton on bituminous coal moving to Beloit, Wisconsin, is higher than the revenue per car on

all of the other commodities shown in the exhibit. The revenues per car-mile on coal is likewise higher than the revenue per car-mile on the other commodities. Coal earns more per car-mile from Fulton-Peoria to Beloit, Wisconsin, than do such perishable commodities as watermelons, tomatoes, cabbages, packing house products, cured meats and livestock. From a value standpoint bituminous coal is one of the so-called low-value commodities. The Commission has stated many times that the best comparison of different commodities is made using the car-mile earnings.

The movement on bituminous coal from the Fulton-Peoria district to Beloit, Wisconsin, in 1942 was approximately 6,000 tons. This may not be true of some of the other commodities shown in the exhibit. Nevertheless, if anyone offered a car-load of any one of these commodities the carriers would charge the amounts shown for the transportation of that commodity even though only one car per year was handled. There is a movement of agricultural implements such as tractors and combines from Peoria, Illinois, to Beloit, Wisconsin, on which the car-mile earnings range from 7 cents to 11 cents per car-mile less than the car-mile earnings on bituminous coal. The value of tractors and combines in carload lots runs into thousands of dollars, whereas the value of a carload of coal would not exceed [fol. 2222] $125. The exhibit shows the transportation cost burden placed on bituminous coal and the high level of rates on bituminous coal from the Fulton-Peoria origin group to Beloit, Wisconsin.

(Exhibit 84, Witness Christiansen, received in evidence.)

By Mr. Vesey:

Q. Will you please refer to your Exhibit No. 85 and explain this exhibit?

A. Exhibit No. 85, identified by code reference mark N-324 in the lower lefthand corner, is an exhibit containing 42 pages. The exhibit contains various analyses of the rates and mileages from various origin groups in Illinois to destinations in Illinois which are in the so-called suspended or affected territory, including Beloit, Wisconsin, and a comparison of these rates and mileages with the rates and mileages from these same origin groups to destinations in the so-called compared territory in Southern Wisconsin.

The exhibit has been prepared so as to show the results obtained from a consideration of various known methods of ascertaining just and reasonable freight rates on bituminous coal. It contains an analysis of rates under the 13th Section proceeding, Docket 28881, an analysis of rates under I. & S. Docket 5139, an analysis of rates under Docket 30935, the Illinois Commerce Commission's suspension case, an analysis of rates under Docket 31295, the so-called Dixon case, and an analysis of rates under Docket 28888, the so-
[fol. 2223-2225] called Middle States Fuels, Inc. complaint case, involving rates from the Fulton-Peoria origin groups to Beloit, Wisconsin.

All the rates and mileages shown in this exhibit are taken from previous exhibits introduced in evidence in this proceeding. When the exhibit was prepared the increases authorized in Ex Parte 148 were in effect and constituted additions to the rates shown in the exhibit. The Ex Parte 148 increases were cancelled as of May 15, 1943. Hence, the rates shown in the exhibit are present actual rates, except where a specific notation to the contrary appears.

(Exhibit 85, Witness Christiansen, received in evidence.)

. . . . . .

[fol. 2226] By Mr. Vesey:

Q. Now, go ahead. I think, Mr. Christiansen, the last question I asked you was, in view of your explanation of the contents of the exhibit, will you please go through the exhibit page by page and explain the various analyses of mileages and rates which are shown thereon; and I am referring to Exhibit No. 85.

A. Page 1 of the exhibit is a table of contents showing the pages on which the various analyses are shown.

Page 2 of the exhibit shows the Midland Electric scale prescribed in Midland Electric Coal Corporation versus C. & N. W. Railroad, et al. 232 ICC 5. This scale was prescribed for application from the Fulton-Peoria origin group to interior Iowa destinations. The scale was prescribed prior to the increases authorized in Ex Parte 115 and we have, therefore, increased the scale to include the Ex Parte 115 increases. The Midland Electric scale was prescribed for application over the shortest tariff routes using each origin point once. We have made various com-

[fol. 2227] parisons with this scale showing percentages thereof from the Fulton-Peoria origin group to destinations in both the affected and compared territories, and, in making these comparisons, we have used the shortest tariff route mileages, which was the same method of ascertaining mileages under which the scale was prescribed from the Fulton-Peoria origin group to interior Iowa destinations. The Midland Electric scale was prescribed for application from the Fulton-Peoria origin group to interior Iowa destinations. Traffic conditions are not as favorable from the Fulton-Peoria origin group to destinations in interior Iowa as they are between points within the state of Illinois or to Southern Wisconsin in the so-called Illinois Freight Association territory, and this fact is shown in detail on another page of this exhibit.

Page 3 is a statement showing the so-called 23922 scale prescribed in 190 ICC 743 for application from Indiana to Illinois destinations. This scale was prescribed to become effective on May 4, 1933, prior to the increases authorized by the Commission in Ex Parte 115. We have, therefore, added Ex Parte 115 increases, which are included in the scale shown on page 3. This scale was prescribed for a maximum haul of 300 miles, and in this exhibit it has been extended at the rate of 8 cents per ton for each 25-mile block beyond 300 miles. It was prescribed for application over the shortest route over which carload traffic can be [fol. 2228] moved without transfer of lading, which is commonly referred to as the "short-circuit route." Any comparisons with this scale must be made by using the mileages via short-circuit routes rather than mileages via short tariff or shortest tariff routes. There are only a few mileages available in this proceeding from the origin groups via short-circuit tariff routes, hence in making comparisons with the 23922 scale, allowances should be made to compensate for the longer mileages resulting from use of the short tariff or shortest tariff routes.

Exam. Trezise: Now, right there, of course that opinion is going to be the authority as to how the distances were figured.

Mr. Biaett: Exactly.

Exam. Trezise: And if it is at variance from what the witness has said, of course it is the opinion that is going to govern there.

The Witness: That is correct.
Mr. Stadell: Just a second.

By Mr. Stadell:

Q. You refer to the mileages there, Mr. Christiansen, via the short-circuit tariff routes. You meant short-circuit routes without any——
A. No, I said short-circuit routes.

Mr. Vesey: I think you did misspeak and say "short-circuit tariff routes"; you meant short-circuit routes; which would be in the fourth line from the bottom there of page 28. [fol. 2229] The Witness: Short-circuit routes.

By Mr. Vesey:

Q. Will you proceed, please.
A. On page 4 is shown the Holmes and Hallowell Maximum Scale prescribed in 69 ICC 11, brought up to date. The various percentages of the scale are shown for the convenience of the parties. The Holmes and Hallowell maximum scale was prescribed by the Commission for application from the Lake Superior docks to destinations in Wisconsin, Minnesota, North and South Dakota. This scale has been used in many cases for the purpose of measuring rate levels. It was prescribed for application over the shortest possible route, using not more than 3 rail lines over which carload traffic could move, and has sometimes been referred to as the "short-circuit route, using a maximum of 3 lines." However, the routes over which the traffic moves do not follow the routes over which the rates were made because the carriers have endeavored to move the traffic over the route which would give them the longest hauls. There are some instances where the shortest possible route, using not over 3 lines of railroad, is the same as the route over which the traffic moves, but in many cases this is not true. In making a comparison of the rates via short tariff route or shortest tariff route from the origin groups in the Illinois and Indiana producing districts to the destinations involved in these proceedings with the Holmes and Hallowell Maximum Scale of rates, consideration must be given to the fact that in the actual [fol. 2230] application of the Holmes and Hallowell Maximum Scale in the Holmes and Hallowell territory, a lower

level of rates obtains even though the Holmes and Hallowell scale is used in setting up the rate structure, due to the fact that the traffic actually moves over the shortest tariff route, whereas the scale was made by using the short-circuit route using a maximum of 3 rail lines. Thus in actuality the rate level on which the traffic moves in Holmes and Hallowell territory is about 90 per cent of the Holmes and Hallowell scale.

To get a true comparison between the rates from Illinois and Indiana origin groups and the Holmes and Hallowell scale rates to the destinations involved, it is necessary to use the same method of ascertaining mileages, namely, the short-circuit route using not more than 3 rail lines. These mileages from Indiana and Illinois origin groups are not available in this proceeding.

The Holmes and Hallowell scale was prescribed for a territory in which the transportation conditions are admittedly not as favorable as in Illinois Freight Association territory and the level of rates in the Illinois Freight Association territory should reflect the better transportation conditions which prevail therein.

By Mr. Biaett:

Q. I presume you are going to introduce some evidence on that point later on, Mr. Christiansen?

A. The Commission has said so a dozen times.

[fol. 2231] Mr. Biaett: What the Commission has said in a prior case is not evidence in this proceeding.

Mr. Vesey: If you will just bear with us, Mr. Biaett, and save your argument, I think we will get along better.

By Mr. Vesey:

Q. Will you proceed, Mr. Christiansen.

A. Page 5 is a statement showing the level of class rates from Illinois to interior Iowa as against Illinois to Illinois Freight Association Territory for like distances. The level of class rates from the Fulton-Peoria district to Illinois destinations is 81.7 per cent of the level of class rates from Fulton-Peoria to Interior Iowa destinations using Class D as the basis for the class rates. The level of rates on bituminous coal from Fulton-Peoria to Illinois destinations should be lower than the level of rates on bituminous coal from Fulton-Peoria to interior Iowa destinations by

an amount sufficient to reflect this difference in the class rate level. These class rates were prescribed by the Interstate Commerce Commission in Western Trunk Line Class Rate Investigation, 17000 Part 2, 164 ICC 1, and the Eastern Class Rate Investigation, 164 ICC 314, and, presumably, were fixed to reflect the difference in transportation conditions between the two territories.

On page 6 is shown a comparison of the rates prescribed from Missouri mines to Iowa destinations in the Huntsville Sinclair Mining Company case, 209 ICC 477, with the present rates, proposed rates, and Class D rates from Fulton-[fol. 2232] Peoria to the Northern Illinois destinations and Beloit, Wisconsin, and also a comparison of the foregoing rates with the Huntsville Sinclair scale rate adjusted so as to reflect the better transportation conditions which prevail in Illinois.

On Lines 1 to 13, inclusive, are shown the mileages via shortest tariff route, the present and proposed rate, the Class D rate, what the rate would be under the Huntsville scale, which is the basis prescribed from the North Missouri Mines to Iowa, and under the last column, column G, we have shown what 71.4 per cent of the Huntsville Sinclair scale shown in Column F would be. This 71.4 per cent reflects the difference in levels of the class rates in the two territories.

Under column E we have shown the class rates, using Class D as representative, from Fulton-Peoria district to the Illinois destinations, including Beloit, Wisconsin, which results in an average rate of 14.5 cents per hundred pounds. From the North Missouri mines to five Wisconsin destinations with mileages approximately the same as from Fulton-Peoria district to these Illinois destinations, including Beloit, the average Class D rate is 20.3 cents. Therefore, the class rate level from the Fulton-Peoria district to the Illinois destinations is 71.4 per cent of the class rate level from Missouri to Iowa destinations.

Mr. Wilkinson: Just a minute.

By Mr. Wilkinson:

Q. You said "from the North Missouri mines to five [fol. 2233] Wisconsin destinations."

A. Five Illinois——

Q. Don't you mean five Iowa destinations?

A. Five Iowa destinations. Therefore the class rate level from the Fulton-Peoria district to the Illinois destinations is 71.4 per cent of the class rate level from Missouri to Iowa destinations. These class rates were prescribed to reflect the better transportation conditions in Illinois Freight Association territory as against Western Trunk Line territory, the haul from North Missouri mines being all in Western Trunk Line territory. Therefore, if it is proper to have the class rates from Missouri to Illinois destinations 71.4 per cent of the class rates from Missouri to Iowa destinations, then the same lower level of coal rates should apply as a reasonable basis of rates from the Fulton-Peoria district to these Northern Illinois destinations, including Beloit.

On lines 1 to 13, inclusive, under Column G, we have shown what these rates would be. The rate would be $1.12 at Dixon and Sterling, $1.15 at Amboy, $1.26 at Rockford, $1.38 at Freeport, and $1.30 at Beloit. The carriers have testified that the level of rates within the Illinois Freight Association territory on bituminous coal are low. This comparison shows that they are entirely too high compared with what the Commission has prescribed in other territories for hauls where the transportation conditions are much more adverse, and I believe it is time that the Illinois [fol. 2234] Freight Association be given a level of rates on coal comparable with the level of rates fixed in the surrounding territory and reflecting its better transportation conditions.

On page 7 is a tabulation showing that differences in distance become more important as the mileage decreases, and, therefore, the rate differentials or differences should increase as the length of the hauls decrease. Six destinations are shown on the tabulation which have mileages ranging from 126 miles to 407 miles via shortest tariff route from Fulton-Peoria origin groups, and from 310 miles to 605 miles from the Southern Illinois origin group.

As shown under Column G, there is very little variation in the distance differential Fulton-Peoria compared with Southern Illinois at each destination. The distance differential varies from 184 miles at Dixon, Illinois, to 228 miles at Beloit, Wisconsin, using the shortest tariff route mileage. This difference in distance computed via shortest tariff route varies from 59.3 per cent of the Southern Illinois mileage at Dixon to 32.4 per cent of the Southern

Illinois mileage to Wausau, Wisconsin. On the other hand, the differential in the rates is only 50 cents at Dixon, Illinois, where the mileage differential is of more importance and, as against this rate differential, the rate differential at Wausau, Wisconsin, is 70 cents.

If we apply accepted standards of rate-making and use the differential at Wausau as a base, the rate differential at [fol. 2235] Janesville, Wisconsin, would be 79 cents, which it happens to be; at Beloit, Wisconsin, the differential should be at least 79 cents——

By Mr. Vesey:

Q. You mean "would be."

A. Would be at least 79 cents, which it is not; at Rockford, Illinois, the differential would be approximately 85 cents; and at Dixon, Illinois, the differential would become approximately 85 cents. If such adjustments were made it is significant to note that the 85-cent differential at Dixon, Illinois, would establish comparable rates to Fulton-Peoria's present differential under Southern Illinois at Davenport, Iowa, which is $1.00.

The purpose of the comparisons shown on page 7 is to show merely by another method of comparison that the rates from the Fulton-Peoria origin group to Dixon, Rockford and Beloit are too high at the present time, and instead of being increased as proposed by the carriers, they should be decreased.

Mr. Biaett: Just a minute, please. I want the record to show that I object to the statements of Mr. Christiansen on page 34 of his prepared statements for the reasons I have given before, that the differential relationship between Southern Illinois and Fulton County is not involved in these proceedings.

By Mr. Vesey:

Q. Will you proceed, Mr. Christiansen?

Mr. Biaett: And move that they be stricken.

Mr. Vesey: Now, if the Examiner please, I don't think [fol. 2236] that necessitates a reply, that they be stricken. I think I have answered that before. I am not going to elaborate on it now.

Exam. Trezise: The Examiner has ruled on that.

Mr. Biaett: The Examiner has ruled on that. I want the record to show that I have moved it be stricken, though.

By Mr. Vesey:

Q. Do you know of any reason, Mr. Christiansen, why the rates from the Fulton-Peoria origin group and other origin groups in Illinois and Indiana to the destinations in the Northern Illinois territory should not be first increased, as proposed by the carriers, and then adjusted as you have suggested in your several exhibits, including the tabulation shown on page 7 of Exhibit 85?

A. Yes. The Interstate Commerce Commission has held many times that under a properly established freight rate pattern the rate differentials or differences should decrease as the distance increases, or, stated in reverse, that as the length of the haul decreases the rate differential or difference should increase. In order that proper rates may ultimately be established for the coals produced in Illinois and Indiana which move to the destinations in the Northern Illinois territory involved in this proceeding, it is a fundamental requisite that a proper rate pattern or rate basis be first established. Once this is done, then increases or decreases for the origin groups in Illinois and Indiana may [fol. 2237] be considered as a whole. If this is not done, such increases or decreases tend to preserve unjust and unreasonable rate relationships and rates, with the consequent result that what may under one consideration be a proper and justifiable rate increase is prohibited in the first instance because the rate which would flow from such increase would still be an unjust and unreasonable rate.

I have attempted in my exhibits to focus attention upon this fact, with the hope that the Commission will recognize the validity of this contention and build a proper foundation before it considers the superstructure.

On page 8 is shown a comparison of the rates to Beloit, Wisconsin, with the rate prescribed by the Interstate Commerce Commission in Commonwealth of Kentucky vs. Illinois Central Railroad, decided December 22, 1942, in which the Interstate Commerce Commission prescribed as a reasonable rate a rate from Western Kentucky to Chicago, Illinois, of $2.30 for 393 miles. The Midland Electric Scale for 393 miles is $3.18. The rate prescribed from Western Kentucky to Chicago, as shown on line 6, is 72.3 per cent of the Midland Electric Scale.

Mr. Wilkinson: Just a minute, I think that is objectionable because that particular case, the order has been reopened for further hearing. It is not an outstanding order.

Exam. Trezise: I think we may show, of course, that the case has been reopened for further hearing.

Mr. Vesey: I intended to ask a question on that as soon [fol. 2238] as he answers the question here.

Exam. Trezise: All right, proceed.

The Witness: 72.3 per cent of this scale would produce a rate from Southern Illinois to Beloit, Wisconsin, of $2.30. If Fulton-Peoria were made 79 cents under Southern Illinois, the Fulton-Peoria-Beloit rate would be $1.51, as shown on line 9. If $2.30 is a reasonable maximum rate from Western Kentucky to Chicago, both the Southern Illinois and the Fulton-Peoria rates to Beloit are unjust and unreasonable and should be corrected before any level of rates is prescribed to the Northern Illinois destinations under Section 13 of the Act. This exhibit also shows the present rate from Western Kentucky to Chicago and the percentage this rate is of the Midland Electric Scale. This percentage is 75.5 per cent as shown on Line 7.

By Mr. Vesey:

Q. That case, Mr. Christiansen, to which you have just referred, has been, upon petition, reopened for further hearing, has it not?

A. Yes, it has.

Q. And that further hearing has now been set for October 27, is that correct?

A. That is right.

Q. Proceed.

A. On page 9 is shown a comparison between the present and proposed rates from the Fulton-Peoria origin group to certain destinations in Northern Illinois, together with the ten-mile earnings produced by such rates. In addition, [fol. 2239] there is shown under column G the rate which would obtain from the Fulton-Peoria origin group to the destinations shown under column A if such rate was set at 72.3 per cent of the Midland Electric Scale.

As shown on line 13, the 72.3 per cent figure used under column G is based upon the rate prescribed by the Interstate Commerce Commission in the so-called West Kentucky case in its order dated December 22, 1942. A comparison of

the rates which would obtain if the Interstate Commerce Commission's decision in the West Kentucky case were followed, with either the present rates or the proposed rates, discloses that the application of the Commission's prescription would result in substantial reductions of the rates from the Fulton-Peoria origin group to the destinations shown under column A. Since the transportation conditions which prevail between the Fulton-Peoria origin group and the destinations shown under column A are much more favorable than the transportation conditions which obtain between West Kentucky and Chicago, Illinois, it is to be presumed that the Commission would, if called upon to do so, prescribe lower rates from the Fulton-Peoria origin group to the destinations shown under column A than those set forth under column G, if given an opportunity to do so.

On page 10 are shown the mileages and the rates from the Fulton-Peoria and Southern Illinois origin groups to Beloit, Wisconsin, and to Janesville, Wisconsin, and the difference in the mileage and the difference in the rate to [fol. 2240] these two destinations from both origin groups. There is also shown on page 7 the gradation in the rate from these two origin groups which would apply to the mileage differential involved if the various rate scales prescribed by the Interstate Commerce Commission were applied.

On coal moving from the Fulton-Peoria origin group to Beloit and Janesville, Wisconsin, the mileage differential is 14 miles, that is, Beloit is 14 miles nearer to the origin group than Janesville. The difference in the rates from the Fulton-Peoria origin group to these two destinations is 20 cents. In other words, the railroads reduced their charge on shipments from the Fulton-Peoria origin group to Beloit 20 cents for the 14-mile shorter haul involved.

On shipments from Southern Illinois to Beloit and Janesville the mileage differential is 11 miles, that is, Beloit is 11 miles nearer to the origin group than Janesville. The difference in the rates from the Southern Illinois origin group to these two destinations is 39 cents. In other words, the railroads reduced their charge on shipments from the Southern Illinois origin group to Beloit, Wisconsin, 39 cents for the 11-mile shorter haul involved.

Hence we ask why should a 11-mile reduction in distance result in a 39-cent reduction in rate from Southern Illinois and a 14-mile reduction in distance result in only a 20-cent reduction in rate for Fulton-Peoria. It seems obvious that

[fol. 2241] under these circumstances the Fulton-Peoria rate should be reduced at least an additional 19 cents, so as to put it on a comparable rate basis with Southern Illinois.

On lines 5 to 14 on page 10 are shown the gradations which would apply in the rates from both the Fulton-Peoria and Southern Illinois origin groups on shipments to Beloit and Janesville if the various rate scales prescribed by the Interstate Commerce Commission were applied. For example, if the Docket 23922 scale were applied it would result as shown on line 5 in a rate difference for Fulton-Peoria of 10 cents, and for Southern Illinois of 8 cents. Similarly, if the Holmes & Hollowell scale were applied as shown on line 6, the Fulton-Peoria rate differential would be 19 cents and the Southern Illinois differential 12 cents.

The differentials that were obtained under the various other rate scales are shown on lines 7 to 14, inclusive. The significant fact in connection with the application of the prescribed rate scales is that for the shorter haul a greater differential is prescribed. In other words, in the rate scales prescribed by the Interstate Commerce Commission the rate difference or differential increases as the mileage or length of haul decreases. As pointed out on lines 1 to 4, the absolute converse of this principle now obtains in the case of shipments from Fulton-Peoria and Southern Illinois to Beloit and Janesville. It is this radical departure [fol. 2242] from recognized freight rate making principles that occasions our complaint in Docket 28888, and our objection to the use of Beloit, Wisconsin, as a basis for the increases proposed by the carriers in Docket 28881.

Mr. Vesey: I ask that there be stricken the word, Mr. Examiner, in Mr. Christjansen's answer reading as follows: "our complaint in Docket 28888."

Mr. Wood: Where, now?

Mr. Vesey: Comma, "and."

Mr. Wilkinson: You want to strike the comma?

Mr. Vesey: That is right, I want the comma and the word "and" stricken, so that the words stricken will read, "our complaint in Docket 28888, and." I ask that that be physically stricken, so that the sentence, as corrected, will read, "It is this radical departure from recognized freight rate making principles that occasions our objection to the use of Beloit, Wisconsin as a basis for the increases proposed by the carriers in Docket 28881."

By Mr. Vesey:

Q. Proceed, Mr. Christiansen.

A. On page 11 is shown in chart form the information shown on page 7.

If the normal gradation which obtains under the various rate scales for the length of haul involved from Fulton-Peoria and Southern Illinois to Beloit and Janesville were recognized, and the rate from Fulton-Peoria predicated [fol. 2243] upon the present rate base applying from Southern Illinois to Beloit and Janesville, the Southern Illinois rate difference of 39 cents would be continued and the rate from Fulton-Peoria to Beloit would be fixed at approximately 45 cents per ton below the present Fulton-Peoria rate to Janesville, or at $1.55 per ton.

On page 12 is shown a comparison of the rates and mileages from the Fulton-Peoria origin group and the Southern Illinois origin group to certain destinations in Wisconsin, Iowa and Northern Illinois. In addition thereto are shown the rates and mileages from the Northern Illinois origin group to Beloit, Wisconsin, only.

Under column A is shown the origin group. Under column B is shown the destination. Under column C is shown the present rate. Under column D is shown the mileage via short tariff route. Under column E is shown the mileage under shortest tariff route. Under column F is shown the mileage difference via short tariff route, that is to say, the difference in the distance from Southern Illinois and Fulton-Peoria to the destination shown. For example, under column F on line 3 the figure 240 appears, which figure means that the distance from Southern Illinois, to Beloit, Wisconsin, is 240 miles greater than the distance from Fulton-Peoria to Beloit, Wisconsin. Under column G is shown the mileage difference between Fulton-Peoria and Southern Illinois to the particular destination shown when figured via the shortest tariff route. Under column [fol. 2244] H is shown the present rate differential between Southern Illinois and Fulton-Peoria origin groups to the destination shown.

The rates and mileages from the Northern Illinois origin group to Beloit shown on line 2 were set forth in the exhibit because this rate was prescribed as a reasonable maximum rate in ICC Docket 20912 and in I & S Docket 3536, which decisions appear in 164 I. C. C. 543 and 174 I. C. C. 545,

and because they afford an opportunity to compare rates established by the Interstate Commerce Commission with the rates established by the carriers for Fulton-Peoria and Southern Illinois coal going to Beloit, Wisconsin, which said rates are the subject of consideration in these proceedings. The prescribed rate from the Northern Illinois origin group to Beloit is $1.40 per ton and the haul via shortest tariff route is 122 miles. The rate from Fulton-Peoria to Beloit as shown on line 1 is $1.80 per ton and the haul via shortest tariff route is 169 miles. The rate from Southern Illinois to Beloit is $2.40 per ton for a haul via shortest tariff route of 397 miles. Thus, as shown on line 2, Fulton-Peoria, on coal moving to Beloit, now pays a rate which is 40 cents per ton higher than the Northern Illinois rate to this destination and the length of the haul from the Fulton-Peoria origin group is only 47 miles greater than from Northern Illinois.

Stated in other words, the rate differential assessed against the Fulton-Peoria origin group for this 47-mile [fol. 2245] longer haul is approximately 1 cent per ton-mile.

The difference in distance between Southern Illinois and Fulton-Peoria to Beloit is 240 miles via short tariff route and 228 miles via shortest tariff route. For these mileage differences Southern Illinois pays 60 cents per ton. Entirely different differentials have been prescribed or approved by the Interstate Commerce Commission at other destinations in Wisconsin, Illinois and Iowa. For example, at Janesville, Wisconsin, the approved differential is 79 cents; at interior Iowa destinations 70 cents; at Davenport, Iowa, $1.00; at Clinton, Iowa, 92 cents; and at Dubuque, Iowa, 70 cents. The mileage differences between Southern Illinois and Fulton-Peoria at these destinations vary from 198 to 228 miles. The mileage difference between Southern Illinois and Fulton-Peoria at Beloit, Wisconsin, is 228 miles via shortest tariff routes or 240 via short tariff routes.

Page 13 shows the differential or difference Southern Illinois over Fulton-Peoria district to Beloit, Wisconsin, compared to the differential or difference which would prevail if a straight scale of rates were applied. The 23922 scale prescribed in 190 I. C. C. 743 for application from Indiana to Illinois destinations, if applied to the mileage from Fulton-Peoria and Southern Illinois without the use of the differential adjustment in making the rates, would show a difference of 77 cents. If the Holmes & Hollowell

scale were used the difference would be $1.54; if the Mid-
[fol. 2246] land Electric scale were used the difference would be $1.22, and if 81.7 per cent of the Midland Electric scale were used, which 81.7 per cent represents the difference in transportation conditions Illinois Freight Association territory as against Illinois Freight Association territory to Iowa destinations, as illustrated on page 5 of this exhibit, the difference would be 95 cents. Applying 81.7 per cent of the Midland Electric scale as shown on line 5, to the mileage from the Fulton-Peoria district to Beloit, Wisconsin, would produce a rate to Beloit of $1.64 as a reasonable maximum rate. If the rates from Southern Illinois were made 79 cents over this $1.64 as shown on lines 9-12, inclusive, the rate from Southern Illinois would be $2.43, or 3 cents higher than the present rate of $2.40, and a proper and reasonable rate adjustment would prevail.

Under column H, I have shown the ton-mile earnings which would be earned on the basis of the differential shown. The present differential earns ton-mile earnings of 2.66 mills for the 288-mile haul Southern Illinois over Fulton County.

On pages 14, 15 and 16 are shown comparisons of the rate levels from Southern Illinois and Fulton-Peoria origin groups to Beloit, Wisconsin, and to certain other destinations in the so-called compared territory in Wisconsin. On pages 20 and 21 the same comparisons are made with the Wisconsin rate levels, except that the Illinois destination [fol. 2247] of Amboy is used instead of Beloit. On pages 24, 25 and 26 the same comparisons are made, except that the Illinois destination of Dixon is used instead of Beloit. On pages 34, 35 and 36 the same comparisons are made except that the Illinois destination of Rockford is used instead of Beloit. On page 40 a similar comparison is made except that the Illinois destination of Sterling is used instead of Beloit.

I point out these comparisons at this time in order to avoid repetition in explaining pages 20, 21, 24, 25, 26, 34, 35, 36, and 40.

Returning to page 14, I have shown in column C the distance from Southern Illinois origin group to the destinations involved, and the distance from the Fulton-Peoria origin group to the destinations involved when our mileage is used, that is to say, the mileages computed by me and

introduced by me in behalf of Middle States Fuels, Inc., and Northern Illinois Coal Trade Association.

In column D the distances from these two origin groups to the destinations involved are shown as determined by the carriers' mileage computations. In column E are shown the present rates.

In column G is shown the rate which would obtain from Southern Illinois and from Fulton-Peoria to the involved destinations if our mileages were used and the Midland Scale applied.

[fol. 2248] In column H are shown the rates which would apply from Southern Illinois and from Fulton-Peoria to the same destinations if the carriers' mileages were used and the Midland Scale applied.

Under column I is shown the relationship between the present rates from Southern Illinois and Fulton-Peoria to the destinations involved when compared with the rate which would obtain if the Midland Scale were applied to our mileages.

Under column K is shown the relationship between the present rates from Southern Illinois and Fulton-Peoria to the destinations involved when compared with the rate which would obtain if the Midland Scale were applied to the carriers' mileages.

As shown on line 8, the level of the present rates from Southern Illinois to these Wisconsin destinations based on our mileages is 85.5 per cent of the Midland Electric Scale, whereas the Southern Illinois rate level to Beloit, as shown on line 9, is 74.3 per cent of the Midland Electric Scale.

Mr. Stadell: Mr. Examiner, it is just actually impossible to follow any of his testimony.

Mr. Vesey: Will you slow down just a little bit?

Mr. Stadell: You can't possibly even take a glance at the exhibits or hear the testimony, either. Mr. Christiansen is going entirely too fast.

The Witness: The level of rates——

[fol. 2249] Exam. Trezise: Go a little slower, Mr. Christiansen.

The Witness: The level of rates which obtains from Fulton-Peoria to the Wisconsin destinations is, as shown on line 19, 89.7 per cent of the Midland Electric Scale, based on our mileages, whereas the Fulton-Peoria rate level to Beloit is 82.5 per cent of the Midland Scale.

In other words, the Southern Illinois rate level to Beloit is 11.2 percentage points lower than its level of rates to Wisconsin, whereas Fulton-Peoria's rate level to Beloit is only 7.2 percentage points lower than its level of rates to Wisconsin. If Fulton-Peoria's rate to Beloit was based upon the difference in the rate levels which obtain on Southern Illinois shipments to Beloit and to the Wisconsin destinations, Fulton-Peoria's rate to Beloit would be fixed, as shown on line 22, at $1.62, if our mileages are used, and, as shown on line 23, $1.58, if the carriers' mileages are used.

Stated in other words, the application of the rate levels which obtain on Southern Illinois shipments to Wisconsin destinations and to Beloit, Wisconsin, in establishing rates on bituminous coal from Fulton-Peoria to Beloit, Wisconsin, would result in a reduction in the present Fulton-Peoria rate to Beloit of 18 cents a ton if our mileages are used, and 22 cents a ton if the carriers' mileages are used. The establishment of such rates would bring about a rate differential or difference between Fulton-Peoria and Southern Illinois at Beloit of approximately 79 cents a ton, which [fol. 2250] was the rate difference or differential prescribed in the Hardie Announcement promulgated in 1925, which I have already testified about.

Mr. Biaett: I make the same objection and move that it be stricken, Mr. Examiner.

Exam. Trezise: Oh, I think we will let it stand.

The Witness: On page 15 the information shown on page 14 is plotted in chart form using the Midland Scale as the yardstick. The difference in the rate levels as between Fulton-Peoria and Southern Illinois to Beloit, Wisconsin is also converted to actual percentages rather than amounts in percentage points as shown on page 14. The Southern Illinois rate level to Beloit is 13.1 per cent lower than Southern Illinois to Wisconsin, whereas Fulton-Peoria to Beloit, Wisconsin, is only 8.0 per cent lower than Fulton-Peoria to Wisconsin.

On page 16 is shown the same comparison as is shown on page 14, except that the Holmes & Hollowell scale is used as the yardstick instead of the Midland Scale.

On pages 17, 22, 27, 37 and 41 are shown comparisons of the rate levels from Southern Illinois and from Victoria in the Fulton-Peoria origin group to Dixon, Illinois, and Amboy, Illinois, Beloit, Wisconsin, Rockford, Illinois, and Sterling, Illinois, respectively, and to certain destinations

in Wisconsin. The Wisconsin destinations are the same as those used in making the comparisons on pages 14, 20, 24 and 34 of this exhibit. The comparisons at each of the compared points are made in exactly the same manner.

[fol. 2251] As shown on line 23 of page 17, the proper rate from Victoria to Beloit, Wisconsin, is $1.58 per ton, instead of the present rate of $1.80.

As shown on line 23 of page 22, the proper rate from Victoria to Amboy is $1.27 instead of the present rate of $1.50.

As shown on line 23 of page 27, the proper rate from Victoria to Dixon is $1.21, as compared with the present rate of $1.50.

As shown on line 23 of page 37, the proper rate from Victoria to Rockford, Illinois, is $1.34 per ton instead of the present rate of $1.45 per ton, via the C. B. & Q., or $1.50 via the Galesburg & Great Eastern, C. B. & Q., and C.M.St.P.&P.

As shown on line 23 of page 41, the proper rate from Victoria to Sterling, Illinois, is $1.21 per ton instead of the present rate of $1.33 per ton.

On page 18 is shown a comparison of the rate level from Southern Illinois and the Atkinson mine in the Fulton-Peoria origin group to Beloit, Wisconsin, and to the Wisconsin destinations heretofore referred to in the comparisons shown on page 14. The information on page 18 was prepared in exactly the same way as the information shown on page 14 except Atkinson is the origin point instead of Fulton-Peoria. The comparison on page 18 shows that a just and reasonable rate from Atkinson to Beloit, Wisconsin, would be as shown on line 21, $1.59 per ton instead of the present rate of $1.94 per ton, if our mileages are used, [fol. 2252] and if the carriers' mileages are used the proper rate from the Atkinson mine to Beloit, Wisconsin, would be $1.54 per ton instead of the present rate of $1.94 per ton, or a 40-cent per ton reduction.

On page 19 is shown in chart form the same information as appears in the tabulation shown on page 18, and does not need any further explanation.

Exam. Trezise: I think possibly that would be a good place to stop. You can't finish it anyhow this morning, and if there is no objection, we will adjourn until 10:00 o'clock Monday morning.

(At 12:00 o'clock noon, on Saturday, October 2, 1943, adjournment taken to 10:00 o'clock a. m., on Monday, October 4, 1943.)

* * * * * * *

[fol. 2253] By Mr. Vesey:

Q. Mr. Christiansen, I believe you stopped reading from your prepared statement on page 50. Will you proceed on page 51, please.

A. On page 20, as previously explained, is shown a comparison of the rate levels from Southern Illinois and Fulton-Peoria origin groups to Amboy, Illinois, and to certain other destinations in the so-called compared territory in Wisconsin.

The data shown on page 20 is made up in exactly the same fashion as that shown on page 14, except that the compared destination in these instances is Amboy, Illinois. It shows that if the Fulton-Peoria origin group rates to Amboy, Illinois, were related to the Fulton-Peoria rate level to the [fol. 2254] Wisconsin destinations in exactly the same manner as are Southern Illinois rates to Amboy, the Fulton-Peoria rate would be $1.32 per ton instead of $1.50 per ton, and if the suspended rates were put into effect for Southern Illinois and other Illinois origin groups, the Fulton-Peoria origin group would take a rate at Amboy of $1.35 per ton instead of the proposed rate of $1.55 per ton. This information is shown on lines 23 and 24. If the carriers' mileages were used the resultant rate would be $1.42 per ton for the present rate and $1.46 per ton if the proposed suspended rates are considered.

Exam. Trezise: Let me get straight.

By Exam. Trezise:

Q. "Our mileages," you say, are over the shortest tariff routes?

A. Our mileages are over the shortest tariff routes and the carriers' mileages are over the short tariff routes.

Exam. Trezise: Thanks.

The Witness: On page 21 the information shown on page 20 is again shown, except that on this page it is shown in chart form.

Page 22 is explained in connection with pages 17, et cetera, of the exhibit.

On page 23 is shown a comparison of rates and mileages from Fulton-Peoria, Northern Illinois and Southern Illinois districts to Amboy, Illinois, compared with rates and mileages to other destinations. The mileages via both short [fol. 2255] and shortest tariff routes are shown. Present rates only are shown.

For a difference in distance of 178 miles via short tariff route as between Fulton-Peoria and Southern Illinois to Amboy, the difference in rate is 50 cents, whereas from Northern Illinois to Amboy for a difference in distance as between Northern Illinois and Fulton-Peoria of 69 miles the rate difference is 45 cents. In other words, 45 cents for 69 miles and 50 cents for 178 miles. There is something wrong with such an adjustment.

The rate from Fulton-Peoria to Amboy earns 11 mills per ton-mile. The rate from Fulton-Peoria to Clinton for approximately the same distance earns 9.9 mills per ton-mile. From Northern Illinois to Beloit, Wisconsin, the Commission prescribed a rate of $1.40 for 125 miles in 174 ICC 545 as shown on line 6 and from Fulton-Peoria to Linwood, the Commission prescribed $1.25 for 114 miles in 197 ICC 301. On line 8 is shown the Midland Electric Scale for 140 miles, which is $1.75. On line 9 is shown the per cent that the Fulton-Peoria-Clinton rate is of the Midland Electric Scale, which is 76 per cent.

If the rate from Fulton-Peoria to Amboy were made on the basis of the rate from Fulton-Peoria to Clinton it would be $1.33, which is shown on line 10, namely, 76 per cent of $1.75. On page 5 of this exhibit is shown the class rate level in Illinois Freight Association territory as against the class rate level from Fulton-Peoria to Iowa [fol. 2256] destinations, which is 81.7 per cent. If the Fulton-Peoria-Amboy rate were made on the basis of 81.7 per cent of the Midland Electric scale, the rate would be $1.43 as shown on line 12. The difference Southern Illinois over Fulton-Peoria to Clinton, Iowa, is 92 cents for a difference in distance of 240 miles via the short tariff route and 230 miles via the shortest tariff route.

On page 24 is shown a comparison of the rate levels from Southern Illinois and Fulton-Peoria origin groups to Dixon, Illinois, and to certain other destinations in the so-called compared territory in Wisconsin. In this comparison the

Wisconsin destinations are the same destinations as I used in making my comparisons at Beloit, shown on page 14 of this exhibit, and in making my comparisons at Amboy, shown on page 20 of this exhibit. The data shown on page 24 was prepared in exactly the same manner as the data used on pages 14 and 20 which I have previously explained, except that the compared destination is Dixon, Illinois. This page shows on lines 23, 24, 26 and 27 what a proper rate would be to Dixon if Fulton-Peoria to Dixon were accorded the same treatment as is accorded Southern Illinois to Dixon.

On page 25 I have shown exactly the same data as shown on page 24, except that it is shown in chart form.

On page 26 I have shown the same data as shown on page 24, except that in this instance the Holmes and Hallowell scale is used as a yardstick instead of the Midland Electric [fol. 2257] scale which was used in making the study shown on page 24.

Page 27 is taken care of in connection with the testimony with reference to page 17.

On page 28 is a comparison of the rate levels from Southern Illinois and the Atkinson Mine in the Fulton-Peoria group to Dixon, Illinois, and to the Wisconsin destinations which I have used in making the comparisons shown on pages 14, 18, 20 and 24. The tabulation is made the same way as the other rate level comparisons were made.

As shown on line 21, the proper rate from Atkinson on coal moving to Dixon, Illinois, is $1.49 per ton instead of the present rate of $1.75 per ton. This is based on the present tariff route which is longer than the route via C. R. I. & P.-Silvis-C. B. & Q.-Sterling-C. & N. W. No rates are in effect via this latter route.

On pages 29 and 30 I have shown certain rate comparisons between the Fulton-Peoria and Southern Illinois and Northern Illinois origin groups on coal moving to Dixon, Illinois, and certain comparisons between the rates from the Fulton-Peoria and Southern Illinois origin groups on coal moving to Clinton, Iowa, together with computations showing what the Fulton-Peoria rates to Dixon, Illinois, would be if the rate was based upon the Clinton, Iowa rate and the Midland Electric Scale used, and, secondly, what the Fulton-Peoria rate to Dixon would be if the Clinton, Iowa level of rates were used and effect given to the shorter

[fol. 2258] mileage which obtains on hauls to Dixon, Illinois, as compared with hauls to Clinton, Iowa.

On lines 1 to 7, inclusive, on page 29 are shown the Fulton-Peoria, Southern Illinois and Northern Illinois rate comparisons to Dixon, Illinois. On lines 8 to 12, inclusive, are shown the rate comparisons between Fulton-Peoria and Southern Illinois on coal moving to Clinton, Iowa.

Under Column A is shown the present rate; under Column B the short tariff mileage; under Column C the shortest tariff mileage; under Columns D and E the ton-mile earnings in mills which result from use of the short and shortest tariff routes; and under F, G and H the difference over or under Fulton-Peoria in the mileage computed under short tariff and under shortest tariff and in the rates.

For example, on line 2 under Column F the difference in the length of the hauls from Fulton-Peoria and Southern Illinois to Dixon is 191 miles and the difference in the rates from these two origin groups to Dixon is 50 cents per ton. Stated in other words, Southern Illinois at the present time pays 50 cents per ton for the 191-mile longer haul. On the other hand, as shown on line 3, Northern Illinois is 35 miles closer to Dixon than Fulton-Peoria and its rate is 45 cents per ton less than the Fulton-Peoria rate, or, stated in different words, the Fulton-Peoria origin group pays 45 cents per ton for a 35 mile longer haul when its rates are com-
[fol. 2259] pared with the Northern Illinois rates.

Following these comparisons through, it is to be seen that Southern Illinois enjoys an inordinately favorable rate relationship with the Fulton-Peoria origin group, that is to say, it is able to move coal 191 miles for virtually the same rate as is assessed Fulton-Peoria for moving coal 35 miles. As shown on lines 4 and 5, the Fulton-Peoria mileage is 38.8 per cent of the Southern Illinois mileage, but the Fulton-Peoria rate is 75 per cent of the Southern Illinois rate.

On coal moving to Clinton, Iowa, a wider differential obtains between the Fulton-Peoria and Southern Illinois districts, although there is a slightly greater difference in distance than obtains at Dixon. As shown on line 9, the haul from Southern Illinois to Clinton, Iowa, is 240 miles longer than from Fulton-Peoria, and the rate from Southern Illinois is but 92 cents a ton greater. Stated in terms of percentages, the Fulton-Peoria mileage is 35.8 per cent of the Southern Illinois mileage and the Fulton-Peoria rate is 59.1 per cent of the Southern Illinois rate. As shown

on line 12, if the Fulton-Peoria rate to Dixon was set at 59 per cent of the Southern Illinois rate to Dixon, the Fulton-Peoria rate would be $1.18 per ton instead of $1.50 per ton as at present.

As shown on line 16, the Fulton-Peoria rate to Clinton is 76 per cent of the Midland Electric Scale rate. If the Fulton-Peoria-Dixon rate was established at 76 per cent of [fol. 2260] the Midland Electric Scale it would be $1.28 as shown on line 17.

Even if the fact that Dixon is closer to the Fulton-Peoria origin group than is Clinton, Iowa, were discounted, and Fulton-Peoria's rates to Dixon were set at the same rate in effect on coal moving from Fulton-Peoria to Clinton, Fulton-Peoria would receive a substantial reduction in its rate to Dixon, as shown on line 18. The resulting rate would be $1.33 per ton instead of the present rate of $1.50 per ton.

If consideration were given in fixing the rates from the Fulton-Peoria group to Dixon to the better transportation conditions which prevail when this haul is compared with the haul from Fulton-Peoria to Iowa destinations, then as shown on line 19 the Fulton-Peoria-Dixon rate would be $1.37, or 13 cents lower than the present Fulton-Peoria-Dixon rate.

On page 30 I have shown, on lines 2 to 4, inclusive, what the Fulton-Peoria rate to Dixon, Illinois, would be if this rate were based on the Clinton rates and the Midland Electric Scale used to reflect the shorter mileages involved. In other words, the Midland Electric Scale is 7 cents per ton lower for 121 miles than for 134 miles. If this 7 cents were taken off the $1.33 rate applying from Fulton-Peoria to Clinton, the Fulton-Peoria-Dixon rate would be $1.26 as shown on line 4.

On lines 5 to 7 is a comparison of the rates from Fulton-Peoria to Dixon with the rates which the Interstate Commerce Commission prescribed as reasonable maximum rates [fol. 2261] from Fulton-Peoria to Linwood, Iowa and from Northern Illinois to Beloit, Wisconsin for comparable mileages. Reference to the decisions in which these reasonable maximum rates were prescribed is shown at the bottom of the page. The present rate from Fulton-Peoria to Dixon earns 1.2 mills per ton more than the Northern Illinois to Beloit rate earns and 1.4 mills per ton mile more than the Fulton-Peoria to Linwood, Iowa rate earns. If the Fulton-Peoria to Dixon rate were made so as to earn the same earn-

ings per ton mile as the rate from Fulton-Peoria to Linwood, the rate would be 17 cents lower than the present rate, or $1.33.

Page 31 shows the difference or graduation of various rate scales prescribed by the Interstate Commerce Commission for the difference in distance as between Rockford, Illinois, and Janesville, Wisconsin, of approximately 37 miles for the respective mileages from the Fulton-Peoria-Southern Illinois districts to these two destinations.

The average distance is 36.7 miles from Rockford, Illinois, to Janesville, Wisconsin. On lines 8 to 19 is shown the gradation for the difference in distance of 36.7 for hauls between 150 and 190 miles, and for hauls between 370 and 410 miles, one representing the Fulton-Peoria mileages to the destinations of Rockford, Illinois, and Janesville, Wisconsin, and the other representing the Southern Illinois mileage to these two destinations. In every instance it will be noted that the gradation for this haul is greater for the [fol. 2262] mileage from the Fulton-Peoria district, and yet the rates in effect from Fulton-Peoria to Rockford, Illinois, are 50 cents lower than from Fulton-Peoria to Janesville, Wisconsin, as shown on line 20, and the rate from Southern Illinois to Rockford is 69 cents lower than the Southern Illinois rate to Janesville for this same difference for a longer haul.

On lines 22 and 23 is shown the suspended destination differentials or differences, Rockford, Illinois, under Janesville, Wisconsin, from the Fulton-Peoria district and from the Southern Illinois district, which are 35 cents for Fulton-Peoria and 54 cents for Southern Illinois, or the same 19 cents which the Southern Illinois level of rates is lower to Rockford, Illinois, than to Janesville, Wisconsin, when compared with the rates from the Fulton-Peoria district.

Page 32 further illustrates the relationship of Fulton-Peoria versus Southern Illinois to Rockford, Illinois, by showing it in chart form. Instead of using the average mileage of 36.7 miles, we have taken the difference in distance as between Fulton-Peoria to Rockford, Illinois, and Fulton-Peoria to Janesville, Wisconsin, via the short tariff route and via the shortest tariff route, which is 32 miles via short tariff route and 31 miles via shortest tariff route. From Southern Illinois to Rockford, Illinois, as against Southern Illinois to Janesville, Wisconsin, the difference

in distance is 52 miles via short tariff route, and 44 miles [fol. 2263] via shortest tariff route. Fulton-Peoria Rockford, Illinois, differential in rate under Southern Illinois is 50 cents, whereas the Fulton-Peoria Janesville, Wisconsin, rate under Southern Illinois is 69 cents.

On the exhibit I noticed, at least on my copy, on the last column on line 2 it just shows "3". That should read "31."

By Mr. Stadell:

Q. Is that Rockford over Janesville or under Janesville?
A. Rockford under Janesville, shortest tariff.
Q. 31?
A. Should be 31. It reads "3."

On the bottom of the page is shown the normal gradation of various rate scales prescribed by the Interstate Commerce Commission for application on coal. In each instance the normal gradation would result in a Fulton-Peoria differential for Rockford, Illinois, under Janesville, Wisconsin, greater than the Southern Illinois differential for Rockford, Illinois, under Janesville, Wisconsin. For instance, under the 23922 scale the Fulton-Peoria differential would be 20 cents and Southern Illinois 16 cents. Under the Midland Electric Scale the Fulton-Peoria differential would be 26 cents and the Southern Illinois differential 22 cents.

Mr. Wood: Pardon me just a minute. Can you add to the bottom of page 32 the exhibit numbers, or do you know at this time?

Mr. Vesey: We are going to put those all in in a minute. [fol. 2264] Mr. Wood: O. K.

Mr. Vesey: There are several exhibit references there to complete it, and after he has completed his statement we will go through and put them all in.

Mr. Wood: O. K.

The Witness: On page 33 is a table showing the rates, mileages, and the rate and mileage differentials which obtain between the Fulton-Peoria, Southern Illinois and Northern Illinois origin groups at Rockford, Illinois, and the rates, mileages and mileage and rate differentials which obtain between the Fulton-Peoria and Southern Illinois origin groups at other comparable and comparative destinations. The destinations are shown under Column B, the present rates shown under Column C, the mileages via short

tariff and shortest tariff routes are shown under Columns D and E, and the differences in mileages and in rates are shown under Columns F, G and H.

The difference or differential Fulton-Peoria under Southern Illinois at Rockford is only 60 cents whereas to the other destinations, the difference or differential ranges from 67 cents to $1.00 for like differences in distance.

On page 34 is shown a comparison of the rate levels from Southern Illinois and Fulton-Peoria origin groups to Rockford, Illinois, and to certain other destinations in the so-called compared territory in Wisconsin. The Wisconsin destinations shown on page 34 are the same as those shown [fol. 2265] on pages 14, 20 and 24. The data shown on page 34 is the same as that shown on pages 14, 20 and 24 except that the compared point in this instance is Rockford, Illinois. The explanation which I have given with reference to pages 14, 20 and 24 applies to page 34.

On lines 23 to 27 is shown the rates which should prevail at Rockford if proper treatment were accorded Fulton-Peoria.

On page 35 is shown the same data as appears on page 34, except that it is shown in chart form.

On page 36 is shown the same information as appears on page 34, except that the scale used on page 36 is the Holmes and Hallowell Scale, whereas the Midland Electric Scale was used on page 34.

Page 37 is taken care of in connection with the testimony with reference to page 17.

On page 38 is a comparison of the rate levels from Southern Illinois and the Atkinson Mine in the Fulton-Peoria origin group to Rockford, Illinois, and to the previously mentioned Wisconsin destinations. The comparisons shown on page 38 were prepared in exactly the same way as the comparisons shown on pages 14, 18, 20, 24 and 28.

As shown on line 21, the proper rate from the Atkinson Mine to Rockford, Illinois, should be $1.35 per ton instead of the present rate of $1.50 per ton.

On page 39 the same information as shown on page 38 [fol. 2266] is shown in chart form. In connection with page 39, I would like to add that as noted under Column F and under Column H, the level of rates which the carriers propose under Section 13 from Atkinson to Rockford is higher than the interstate level from Atkinson to the Wisconsin destinations, and making the comparison with South-

ern Illinois as shown on Columns B and D; whereas Southern Illinois, they propose rates 15.2 per cent lower if our mileages are used and 13.4 per cent lower than the Wisconsin level if the carriers' mileages are used.

On page 40 is shown a comparison of the rate levels from Southern Illinois and Fulton-Peoria origin groups to Sterling, Illinois, and to certain other destinations in the so-called compared territory in Wisconsin. The destinations used in this exhibit are the same as those previously referred to in my explanation of the data shown on pages 14, 20, 24 and 34. The compilation of the data on page 40 is made up in exactly the same way as the compilations on pages 14, 20, 24 and 34. The compared point used in the comparisons shown on page 40 is Sterling, Illinois, rather than the compared destination referred to on pages 14, 20, 24 and 34.

As shown on lines 23 to 27, inclusive, the establishment of a rate level on coal moving from Fulton-Peoria to Sterling, Illinois, on a comparable basis to the present relationship between the Southern Illinois rates to Sterling and the Southern Illinois rates to the Wisconsin destinations would result in a substantial reduction in the Fulton-Peoria [fol. 2267] rate to Sterling. As shown on line 23, this rate would be $1.27 instead of the present rate of $1.33 if our mileages are used, and a rate of $1.23 or 10 cents below the present rate if the carriers' mileages are used.

Page 41 is explained in connection with the testimony in connection with page 17.

On page 42 is shown a comparison of the rate levels from Southern Illinois and from the Atkinson Mine in the Fulton-Peoria origin group to DeKalb, Illinois, and to certain destinations in Wisconsin. The destinations in Wisconsin which were used for purposes of comparison with DeKalb, Illinois, are the same destinations which I used in making similar comparisons between the rate levels from Southern Illinois and Fulton-Peoria on pages 14, 20, 24, 34 and 40 of this exhibit, with the single exception that the destination Wausau, Wisconsin, was not used, for the reason that there are no rates from Atkinson to Wausau. The same method was used in making the comparisons shown on page 42 as was used in making the comparisons on pages 14, 20, 24, 34 and 40.

As shown on line 21, the establishment of a rate from Atkinson to DeKalb, Illinois, at a level below the Atkinson

rate which would reflect the same difference in rate levels as applies on Southern Illinois shipments to DeKalb, Illinois, and to the Wisconsin destinations, would result in a rate from Atkinson to DeKalb, using our mileages, of $1.22 per ton, as against the present rate of $1.81 per ton.

[fol. 2268] In this connection it should be remembered that the carriers propose a rate of $1.10 per ton on coal moving from Northern Illinois origin group to Forreston, Illinois, a distance of 110 miles. The distance from Atkinson to DeKalb, Illinois, as shown on line 18 under Column D, is 98 miles. Hence, it would seem that if the carriers' proposed rate on Northern Illinois coal moving to Forreston is a just and reasonable rate, a $1.22 per ton rate on coal moving from Atkinson to DeKalb, Illinois, would also be a just and reasonable rate and in consonance with the carriers' own proposal. Furthermore, the carriers have proposed a rate from the Northern Illinois origin group to Dixon, Illinois, of $1.10 for a 120-mile haul and a rate of $1.25 per ton for the 125-mile haul from the Northern Illinois origin group to Freeport, Illinois. Hence it would seem that the establishment of rates from Atkinson to DeKalb on a basis which reflects the present difference in the rate levels which apply on shipments from Southern Illinois to DeKalb and to the Wisconsin destinations would result in a rate which is just and reasonable and which is in consonance with the carriers' proposals in so far as the Southern Illinois origin group is concerned, and in so far as the Northern Illinois origin group is concerned. I can see no reason why the same principles of freight rate making should not be applied in the establishment of rates from the Fulton-Peoria origin group as are applied in the estab-

[fol. 2269] lishment of rates from the Fulton-Peoria origin group as are applied in the establishment of rates for the Southern Illinois and Northern Illinois origin groups.

By Mr. Vesey:

Q. Now, Mr. Christiansen, will you please turn back to page 5 of Exhibit 85 and directing your attention to the starred reference, I will ask you to supply the exhibit numbers.

A. On page 5, the exhibit numbers from which the mileages were taken here are Exhibit No. 77——

Mr. Vesey: Mr. Examiner, shall we make those changes off the record?

Exam. Trezise: Yes, off the record.

(Discussion outside the record.)

By Mr. Vesey:

Q. Have you prepared an exhibit showing a comparison of the average rates and mileages to the suspended points in Illinois versus the average rates and mileages to the compared points in Wisconsin from the various producing districts in Illinois showing the difference in rates as between the two destination territories, and also showing the difference which would prevail based on the Midland Electric Scale?

A. I have.

Q. Will you please explain this exhibit?

A. Exhibit No. 86, identified by code reference mark N-327 in the lower right-hand corner, is a comparison of the difference in rates from each of the origin groups in [fol. 2270] Illinois to the suspended territory and to the compared territory in Wisconsin.

Under Column A is shown the origin groups. Under Columns B and C are shown the average distance and rate to the 12 suspended destinations via short tariff routes, taken from Exhibit No. 3. The rate shown is the suspended rate. Under Columns D and E are shown the average distance and the average present rate to the compared points in Wisconsin via short tariff routes, also taken from Exhibit No. 3. Under Column F is shown the difference in the average distance to the suspended territory under Column B, less the average distance to the compared points shown in Column D. Under Column G is shown the difference in the rate to the suspended points shown in Column C less the rate to the compared points shown in Column E. The difference in distances to the suspended territory is approximately the same at each of the origin groups in Illinois. This difference in distance varies from 76.7 miles to 86.7 miles. However, the difference in rate as between the two territories is less for the short hauls or the nearby groups than it is for the longer hauls. As an illustration, from the Fulton-Peoria district the average rate to Illinois destinations is 62 cents less than the average rate to the Wisconsin destinations.

whereas the Springfield, Centralia, Belleville, DuQuoin and Southern Illinois rates are from 73 cents to 75 cents less to the suspended territory than to the compared territory. [fol. 2271] Under Column H we have shown what the Midland Electric Scale would be to the suspended territory for the suspended points. As an illustration, the Fulton-Peoria district rate shown on line 2 for 159.8 miles would be $1.93 per ton under the Midland Electric Scale.

Under Column J is shown what the rate would be under the Midland Electric Scale for the average distance shown in Column D, which is the average distance for the compared points in Wisconsin. In other words, from the Fulton-Peoria district, on line 2 for the distance of 238.9 miles, the Midland Electric Scale would produce a rate of $2.43.

Under Column K we have shown the difference between the rates in columns H and J produced by use of the Midland Electric Scale for the distances shown in Columns B and D for the various origin groups. The difference in rate for the short haul is 49 cents and 50 cents for the Fulton-Peoria origin group, and as the distance increases this difference decreases. For example, at Springfield, Illinois, it is 47 cents; Centralia, Belleville, DuQuoin and Southern Illinois, it is 33 cents. This produces the normal method of making freight rates. In other words, under the present adjustment, as shown in Column G, the level of rates from the Southern Illinois origin group and the origin groups in Illinois other than Fulton-Peoria is 73 cents to 75 cents a ton lower than the level of rates from the same origin groups to the Wisconsin destinations, whereas the Fulton-Peoria rate is only 62 cents lower to the sus- [fol. 2272] pended points. If the normal method of making freight rates were in effect and a 62-cent rate level difference were proper for Fulton-Peoria to the suspended points, then the origin groups to the south of Fulton-Peoria should have rates about 45 cents a ton lower to the suspended points than to the compared points, instead of 73 cents to 75 cents.

(Exhibit No. 86, Witness Christiansen, received in evidence.)

Q. Have you prepared an exhibit showing certain errors in the carriers' Exhibit No. 11 with reference to the Fulton-Peoria origin group?

A. I have.

Q. Will you explain this exhibit?

A. Exhibit No. 87, identified by code reference mark N-326 in the lower left-hand corner, shows a comparison of the mileages and rates from the Fulton-Peoria origin group to the suspended destinations to ascertain the average mileages and the average suspended rate which the carriers used in their Exhibit No. 11 for Fulton County. Exhibit No. 11 shows that the average mileage is 170.8 miles, whereas the actual average mileage is 163.9 miles, as shown under Column D, line 13. The carriers used 285 points in Fulton County in ascertaining their average mileages whereas Exhibit No. 3 actually shows 297 points in the Fulton County district. The correction of this error would result in a change in the average mileages shown in Exhibit [fol. 2273] No. 11 and would change all the percentages and the comparisons which the carriers have made in that exhibit.

On line 14 I have eliminated Belvidere as one of the destination points in order to show how much one destination affects the average. The average mileage from Fulton County to the suspended points, as shown on line 15, by the elimination of Belvidere would be 156.2 miles, as against the carriers' average of 170.8 and the correct average of 163.9 miles. This shows how the mileages can be juggled by adding or eliminating one destination point. Rates cannot be made on the basis of average mileages to a group of destinations. Each destination must be separately considered and reasonable rates fixed to that destination. As an illustration, the average mileage to Dixon is 123 miles and the present rate is $1.50. The average mileage to Belvidere is 243.8 miles and the present rate is also $1.50. The Dixon rate might well be unjust and unreasonable and the Belvidere rate be just and reasonable, but, by averaging the two, one might contend that the Dixon rate was also just and reasonable, which obviously is not the fact.

On the bottom half of the exhibit is shown a new average of mileages from the Fulton-Peoria origin group, using the going rate as a basis for ascertaining the mileages.

Line 29 shows that the average is 159 miles. Under Columns F and G the average rates at the present time are shown to be 75.5 per cent of the Holmes and Hallowell Scale [fol. 2274] and the suspended rate is shown as 79.0 per cent of the Holmes and Hallowell Scale. This is an entirely different picture from that shown in the Carriers' Exhibit No. 11.

(Exhibit No. 87, Witness Christiansen, received in evidence.)

Q. Have you prepared an exhibit from the carriers' Exhibit 11 showing the percentages of the Holmes and Hallowell Scale to the suspended points and the compared points?

A. I have.

Q. Will you please explain this exhibit?

A. Exhibit No. 88, identified by reference mark N-330 in the lower right-hand corner is a re-copy of Exhibit No. 11, eliminating some of the detail shown on the Carriers' Exhibit 11 and adding two columns showing the average percentage that the suspended rates are lower than the average percentage of the compared rates. The origin groups are shown in column 1, the average distance is shown in Column 2, which are the distances shown in Exhibit No. 11, in Column 5, except that from the Fulton-Peoria district a correction has been made on account of the error the carriers made in calculating the average distance from the Fulton County district. The average suspended rate is shown in Column 3; the Holmes and Hallowell Scale, Column 4; the average per cent the suspended rate is of the Holmes and Hallowell Scale rate Column 5. The same information is shown in Columns 6 to 12, inclusive, for the representative [fol. 2275] compared points. In Column 13 is shown the difference in the level of rates, suspended versus compared points, on lump coal, and in Column 14 the difference the suspended rate is lower than the compared rate on fine coal, except where a plus sign is shown which indicates that the level to the suspended territory is higher than the level to the compared territory by the percentage shown after the plus sign.

(Exhibit No. 88, Witness Christiansen, received in evidence.)

From Atkinson, Illinois, to the suspended points, the carriers propose a level of rates on both lump and fine coal which is 5.1 per cent higher than the interstate level, as measured by the Holmes and Hallowell Scale. In other words, the carriers under Section 13, propose to make the intrastate level of rates higher than the interstate level of rates. From the Fulton County district, the level of rates to the suspended points is 76.5 per cent of the Holmes and Hallowell Scale whereas the level of rates to the compared

points is 79.6 per cent on lump coal and 77.9 per cent on fine coal. The difference in the two levels is 3.1 per cent on lump coal and 1.4 per cent on fine coal. In other words, the rate level proposed by the carriers from Fulton County to the suspended points is lower than the interstate level of the compared points by 3.1 per cent on lump coal and 1.4 per cent on fine coal. However, from the Southern Illinois [fol. 2276] district, the level of rates to the suspended points proposed by the carriers is lower than the interstate level to the compared points by 8.0 per cent on lump coal and 6.6 per cent on fine coal. Proposals, similar to the Southern Illinois proposal, are made by the carriers from some of the Indiana groups. Just why the Fulton County rate level should be only 3.1 per cent lower than the interstate level on lump coal and 1.4 per cent lower than the interstate level on fine coal and the Southern Illinois rate level should be .8 per cent lower than the interstate level on lump coal and 6.6 per cent lower than the interstate level on fine coal, is beyond our comprehension.

Before the carriers' request for relief is considered, the Fulton County rate level should be adjusted and equalized with the Southern Illinois rate level—otherwise a discriminatory differential adjustment will have been recognized and, in effect, perpetuated by the Commission.

Q. Mr. Christiansen, certain of the witnesses who have preceded you on the stand, and in particular, Mr. Nelson, of the C. B. & Q., and Mr. Kuhls, of the Milwaukee Railroad, challenged the validity of the proposition that, in the establishing of freight rate differentials or differences to compensate for differences in distance, the rate difference or differential should increase as the length of the haul diminishes. Have you made a study of various freight rates for the purpose of determining the facts with respect to this proposition?

[fol. 2277] A. Yes.

Q. Have you prepared an exhibit showing the results of your study?

A. I have.

Q. Will you please refer to that Exhibit No. 89, and explain it?

A. Exhibit 89, which bears the code reference mark N-328 in the lower left-hand corner shows the results of the study which I made with respect to variations in rate differences

or differentials as the length of the haul from the compared origin groups varied.

On page 1 of the exhibit is shown a map of the State of Illinois on which are located certain key towns in so far as the consumption of coal is concerned, and in parentheses is shown for such towns the rate differential or difference between the Southern Illinois freight rate on coal and the West Kentucky freight rate on coal. An examination of the map shows that in Wisconsin, Southern Illinois has a freight rate differential under West Kentucky of 35 cents per ton, which differential also obtains as we move south down to Effingham. As we move closer to the origin groups the freight rate differential or difference increases. It is 44 cents at Mt. Olive and, proceeding toward the Southern Illinois mines with the shorter haul, it is 47½ cents at Mt. Vernon, and when we got down to Benton, Illinois, which is [fol. 2278]-virtually in the Southern Illinois field, it varies from $1.14 to $1.40, the wider differential applying to the nearer mines.

By Mr. Zoll:

Q. What is the differential at St. Louis?

A. 47½, I believe; I don't know.

Mr. Zoll: I just wondered. It wasn't shown on here.

The Witness: On page 2 supporting data for the map on page 1 is shown.

On page 3 is shown a map for portions of the States of Arkansas, Oklahoma, Missouri, Kansas, Nebraska and Iowa. The map was prepared so as to show the Rich Hill origin group, which is located on the State line between Missouri and Kansas, and the Pittsburg origin group, also located on the Missouri-Kansas line to the south of the Rich Hill origin group, and the Spadra origin group further to the south in Arkansas. It portrays the rail lines serving these groups and Kansas City, Missouri, and I have shown thereon the freight rate differentials or differences which obtain between these groups. The rate difference or differentials for the Rich Hill origin group, when compared with the Pittsburg origin group, are enclosed in a circle, and the rate differences or differentials between the Rich Hill origin group and the Spadra origin group are enclosed in squares.

This map shows that the rate differential between the Rich Hill origin group and the Pittsburg origin group increases substantially as the length of the haul decreases. [fol. 2279] For example, at Kansas City Rich Hill has a freight rate differential under Pittsburg of 20 cents per ton, which increases to 45 cents per ton at the nearby point of Schell City. Likewise, when Rich Hill's rates are compared with the Spadra rates the rate differential increases as the length of the haul decreases, and here we have for example on lump coal, a differential at Kansas City of $1.45, at Harrisonville of $1.80, and at Adrian, the nearest point, of $2.00. The detail for the figures shown on this map appears on page 4 of the exhibit.

I wish also to point out that on page 3 I have shown the rate differential between the Rich Hill origin group and the Spadra origin group which obtains at Omaha, Nebraska. This differential is shown for the purpose of illustrating the fact that outside the so-called short-haul destinations freight rate differentials normally are blocked, that is to say, the differential is uniform over fairly large sections, whereas in so-called short haul territory rate differentials vary substantially and are fixed on the basis of the fundamental freight rate principle that differentials or differences in rates in short haul territory increase as the length of the haul decreases or diminishes.

On page 5 of Exhibit 89, is shown a map of the States of Indiana, Illinois, Iowa, Minnesota and Wisconsin, on which I have plotted in red the freight rate differential which obtains at the present time between Brazil-Clinton origin [fol. 2280] group and the Southern Illinois origin group, and in blue figures I have shown the rate differential which obtains at the present time between the Linton-Sullivan origin group and the Brazil-Clinton origin group. What I have said above in discussing the differentials which obtain between Southern Illinois and West Kentucky and the Rich Hill origin group when compared with the Pittsburg and Spadra origin groups, also applies to these comparisons, the only exception being in the comparison of Brazil-Clinton with Southern Illinois at Rockford, Illinois, and this exception is the subject of strenuous objection on the part of the Indiana operators in this proceeding. I have not shown separately the details for this map, as they are already of record in this proceeding.

On page 6 of the exhibit is shown the same map as appears on page 5, but in this case the red figures show the freight rate differential or difference which obtains at the present time between Springfield origin group and the Southern Illinois origin group. These figures show that on coal moving from the Springfield and Southern Illinois origin groups to the north of Springfield, the freight rate differential increases from 30 cents per ton to 91 cents per ton as the length of the haul decreases. It shows also that the freight rate differential is fairly constant outside short-haul territory and that it varies substantially within the short-haul territory, but always increasing as the length [fol. 2281] of the haul decreases. It also shows that on hauls to the northwest and west of the Springfield origin group the principle which I have just been illustrating applies with full force. For example, the differential or difference increases from 20 cents to 56 cents as the length of the hauls decrease.

(Exhibit No. 89, Witness Christiansen, received in evidence.)

By Mr. Vesey:

Q. Mr. Christiansen, as I understand your testimony, the one exception to the principle which you have just been illustrating exists in the case of the Fulton-Peoria short-haul rates to the affected territory, is that right?

A. That is true. It is the only exception. This fundamental principle in freight rate making has been applied by both the carriers and the Interstate Commerce Commission in the case of the Fulton-Peoria rates to the territory outside of the affected territory in this proceeding. For example, in interior Iowa the freight rate differential between Fulton-Peoria and Southern Illinois is 70 cents, and as the length of the hauls decreases and we approach the Fulton-Peoria origin group the freight rate differentials or differences increase substantially. At Dubuque, Iowa, for ex- [fol. 2282] ample, the rate differential is 70 cents, and coming toward the Fulton-Peoria origin group it is 75 cents at Savanna, 92 cents at Clinton, $1.00 at Davenport, and $1.20 at Galesburg. The complaint of the Fulton-Peoria producers in this proceeding would be answered if this fundamental principle in freight rate making were applied in the affected territory in this proceeding.

Q. Mr. Christiansen, does this so-called fundamental principle about which you have just been testifying apply regardless of whether or not the rates in the short-haul territory are based on mileage scales or are on a point to point basis?

A. It does, without exception, except in the case of the Fulton-Peoria rates to the affected territory.

Mr. Vesey: Can we take a recess for about two minutes?

Exam. Trezise: Very well, we will have a recess.

Exam. Trezise: All right, gentlemen, when you are ready we will continue.

By Mr. Vesey:

Q. Mr. Christiansen, will you please refer to Exhibit No. 90 and identify that exhibit, please.

A. Exhibit No. 90 is identified by code reference mark N-331 in the lower left-hand corner and is based on Mr. Rozene's Exhibit No. 37; showing the level of rates in the Holmes and Hallowell territory, based upon the Holmes and Hallowell Scale, by using the short tariff routes as a basis for ascertaining what that level is.

(Exhibit 90, Witness Christiansen, received in evidence.)

[fol. 2283] Q. Now, I notice that in Exhibit 90 there is a blank space for exhibit reference mark. Will you give us the exhibit number?

A. 37.

Q. 37 or 27?

A. 37.

By Exam. Trezise:

Q. Did I understand you to say short tariff route?

A. Short tariff route, yes.

By Mr. Vesey:

Q. Now, will you please explain your Exhibit No. 90?

A. My exhibit No. 90 shows the level of rates from the Lake Superior docks to Minnesota destinations, which is 92.8 per cent of the Holmes and Hallowell scale on lump coal and 87.4 per cent of the Holmes and Hallowell scale on fine coal, with an average of 90.1 per cent for both lump

and fine. It shows the percentages of the Holmes and Hallowell scale to South Dakota and Iowa and the average for Minnesota, South Dakota and Iowa.

On the bottom part of the exhibit is shown the present rate from Fulton-Peoria district to Beloit, Wisconsin, showing the miles, what the Holmes and Hallowell scale would be and the per cent that the present rate is of the Holmes and Hallowell scale, which is 87 per cent on all sizes. And on the last, bottom line is shown the per cent that the Fulton-Peoria to Beloit rate is of the level of the [fol. 2284] rates from the Head of the Lakes to Minnesota, Iowa and South Dakota.

On lump coal the present Beloit rate is 95.6 per cent of the level of rates in the Holmes and Hallowell territory. On fine coal the Fulton-Peoria Beloit rates are 100.1 per cent of the level of rates applying in the Head of the Lakes territory. The average is 97.8 per cent.

Q. Now, Mr. Christiansen, when you have referred to the Holmes and Hallowell scale, not only in your Exhibit 90 but in all other exhibits, have you referred to that scale as increased by the increases in Ex Parte 115?

A. As increased by the increases authorized in Ex Parte 115 for application in this Northwest territory; in other words, 15 cents a ton increase.

Q. Now, was that the actual increase that took place under Ex Parte 115?

A. No, the actual increase was 7½ cents a ton in the Holmes and Hallowell territory.

Q. Now, if you had shown in your use of the Holmes and Hallowell scale the actual increase of 7½ cents, what effect, if any, would that have had upon your percentage figures?

A. It would show that the present rates and the suspended rates in all of these exhibits are a greater per cent of the actual Holmes and Hallowell scale than is shown on the exhibits.

Q. In other words, for illustrative purposes, if your exhibits show, in relating Illinois rates, let us say, [fol. 2285] regardless of origin group to Holmes and Hallowell scale to be, say 87 per cent, by making a proper correction to show the scale as actually increased in 115, that per cent would be greater?

A. Would be close to 100 per cent.

Q. Well, whatever the situation would be. Now, will you please refer to your exhibits——

By Exam. Trezise:

Q. Now, before you get away from that, I am unable to conceive of the answer that you made that these distances of Rozene were figured over the short tariff routes. I don't know how you would figure them. What in the world is that from the Head of the Lakes, the short tariff route from the Head of the Lakes? What does that mean if it doesn't mean—I thought it meant the shortest tariff routes but you say no, it isn't.

A. The short tariff—I presume the short tariff and the shortest tariff would be the same from the Head of the Lakes, inasmuch as there is only one origin point that is used, and that is Duluth. Maybe I am wrong in that; whatever way that Rozene's Exhibit No. 37 was figured.

By Mr. Stadell:

Q. You don't quite mean there would be only one origin. What you meant, there would be one origin at each of the docks. For example, Lake Superior would have one or more origins, Duluth——

A. That is right.

Q. I mean Superior, Wisconsin, would have more than one origin?

[fol. 2286] A. That is right.

By Exam. Trezise:

Q. It still would be the shortest tariff route, even if you figured it that way. Then how do you get this word "short" tariff route? Is that to confuse the Examiner or the Commission? I don't know. It is the shortest, isn't it?

A. It would be the shortest tariff routes.

Q. Yes, I think you meant the shortest and I think Mr. Rozene meant the shortest and not the short.

By Mr. Vesey:

Q. In other words, you used the term "short tariff routes" in respect to Holmes and Hallowell territory on the assumption, as you have just explained it, in which you assumed that the short and the shortest are the same?

A. That is correct.

Q. But actually the route used is the shortest tariff route?
A. Yes, that is right.

By Mr. Kaylor:

Q. Before you leave Exhibit 90, what is to be filled in on that blank, "See exhibit — for detail"?
A. 37.

Mr. Vesey: 37.
The Witness: 37. I might add that the bulk of the coal moving from the Fulton-Peoria district to Beloit, Wisconsin, is fine coal.

By Mr. Vesey:

Q. Now, will you please refer to Exhibit No. 91 and identify and explain that exhibit.
[fols. 2287-2372] A. Exhibit No. 91, identified by code reference mark S-1319 in the lower left-hand corner, shows the mileages from the Southern Illinois District to Portage and Wausau, Wisconsin. These two destinations were not included in Southern Illinois Exhibit No. 27, and inasmuch as we have used Wausau and Portage in some of our comparisons, it was necessary to put in these mileages, which were figured by the Illinois Coal Traffic Bureau.

(Exhibit No. 91, Witness Christiansen, received in evidence.)

Q. Are they via the short or the shortest tariff routes?
A. These are via the short tariff routes, and also as shown on lines 79, 80 and 81 via the shortest tariff routes. Both are shown on the exhibit. The route numbers are the same route numbers shown in Southern Illinois Exhibit No. 27.

By Mr. Zoll:

Q. Would that change any of the numbers that you inserted at various places in Exhibit 85?
A. Wherever Wausau is shown, the mileages are from Exhibit 91.

Mr. Vesey: You may cross-examine.

* * * * * * *

[fol. 2373] Exam. Trezise: Proceed, Mr. Cardy.

A. J. CHRISTIANSEN, resumed:

Direct examination.

By Mr. Cardy:

Q. Mr. Christiansen, do you know where the Medusa Portland cement plant is located?

A. Yes, sir.

Q. On what line of railroad?

[fol. 2374] A. C. & N. W. at Dixon, Illinois.

Q. And do you know what other cement plants are located near Dixon?

A. The nearest plant to Dixon is the one located at Linwood, Iowa, which is the Dewey Portland Cement Company; and there are several plants located in the LaSalle district.

Q. Do you know how many are located in the LaSalle district?

A. Three, I believe.

Q. Three?

A. I believe so.

Q. Do you know whether or not for a good many years and at the present time that the plants in the LaSalle district and the Dixon plant take the same rate?

A. They do from Southern Illinois.

Q. Yes. Would you say that for rate making purposes, the cement plants in the LaSalle, you might say the Oglesby district—which I understand is a proper name—have been grouped for rate making purposes?

Mr. Biaett: You mean on cement?

Mr. Cardy: No, on coals from Southern Illinois.

The Witness: Well, the rate to LaSalle and Oglesby and the rate to Dixon from Southern Illinois have been the same, yes.

By Mr. Cardy:

Q. Is it contemplated to increase the rates from Southern [fol. 2375] Illinois to any plants other than the plant at Dixon in this proceeding, if you know?

A. You mean to any cement plant?

Q. Yes.

A. No, it is not.

Mr. Cardy: I believe that is all. I might state that I will probably have some additional testimony on the Dixon, some additional rate comparisons so far as the rate from Fulton-Peoria to Dixon is concerned, if and when Mr. Cole gets here.

Exam. Trezise: Very well.

Mr. Cardy: That is all I have at this time.

Exam. Trezise: Cross examine.

Mr. Wilkinson: May I ask just one or two questions; two questions:

Cross examination.

By Mr. Wilkinson:

Q. At page 11 of your prepared statement, Mr. Christiansen, you describe what you mean by a going rate as the lowest of several rates from a district.

A. That is correct.

Q. Now, it sometimes happens, does it not, that traffic does move on the rates that are higher than the lowest rate from a district?

A. That could happen. I don't know whether it actually does or not.

Q. But you have stated that what you refer to is the one that would move the business if any were to move?

[fol. 2376] A. That is correct.

Q. Now, that isn't universally true, is it?

A. Well, I know of no instance in the Fulton County district, at least, where business would move via the route that had a higher rate, unless someone made a movement——

Q. Suppose there were two mines in the district that had different rates.

A. The one with the higher rate wouldn't sell the coal.

Q. That is, you wouldn't expect it to sell the coal?

A. That is correct.

Exam. Trezise: And you are speaking of Fulton-Peoria group alone, now?

The Witness: That is correct.
Exam. Trezise: All right.

By Mr. Wilkinson:

Q. Now, on page 29 of your prepared statement, speaking of the so-called 23922 scale, you stated that it was prescribed for application over the shortest route over which carload traffic could move without transfer of lading. Then you say, "Any comparisons with this scale must be made by using the mileages via short-circuit routes rather than mileages via short tariff or shortest tariff routes." Do you mean by that that any comparisons for the purpose of determining the reasonableness of a rate should be worked out on this short-circuit route, or did you mean that the 23922 scale could not be used as a common denominator to [fols. 2377-2379] compare two rates, using either the shortest tariff route distance or the short tariff route distance; just using the scale as a common denominator?

A. Using the scale as a common denominator or comparing the level of rates in a particular territory with the level of rates in the territory where the 23922 scale was used, you would have to use the same method of calculating the mileages. If you use it merely for a yardstick, then it wouldn't make so much difference.

Q. That is what I mean when I say using it as a common denominator.

A. In that case, a comparison would be made by using the short tariff or shortest tariff route.

Q. Yes.

A. If you used the same method of mileage in comparing the two points, but you were comparing—in other words, if you use the short tariff route, use the short tariff route on both of them; if you use the shortest tariff route, use the shortest tariff route on both of them.

[fol. 2380] Exam. Trezise: May I ask Mr. Scott one or two questions before he leaves?

Mr. Wilkinson: Sure.

Exam. Trezise: Gentlemen, I wish to announce that Attorney General Barrett has authorized the excusing of all witnesses that have been held for cross examination, and in so far as he is concerned, they may be excused.

HAROLD V. SCOTT, recalled:

Direct examination.

By Exam. Trezise:

Q. Well, Mr. Scott, this group relationship between Illinois and Indiana, particularly, as well as Western Kentucky, has been a matter of controversy for a long time. That is correct, to your knowledge, is it?

A. Yes, sir.

Q. Would not some modification of the rates in the instances where Indiana rates from Boonville, for example, are lower to a given destination, if that could be corrected, wouldn't that tend to cause this continued controversy from year to year to more or less terminate?

A. You mean by that that Boonville being lower than some other particular group?

Q. Yes.

A. No, it would not. Our relationship between our four Indiana groups is of utmost importance to us and has been [fol. 2381] in effect for a long time to most of this destination territory and to this Northern Illinois destination territory, and it would not, in our opinion, straighten this matter out, because the Indiana mines—it would disrupt the relationship between the Indiana groups themselves as well as between Southern Illinois or the Illinois groups on the one hand and the Indiana groups on the other.

Q. Do you think that this competitive situation between the origin groups is so important as a principle that distance should be ignored to the extent that lower rates for greater distances should apply from Indiana than from Illinois?

A. I think in any group adjustment of this kind, Mr. Examiner, when you take one group out of one group and compare it with another group in a large group adjustment of this kind, you are bound to find those instances, and where those instances exist, those differences in distances exist, they should not be controlling in deciding the rates.

Q. What would you say as to fixing rates on a prescribed basis of relationship, as was attempted in the Midland Elec-

tric Case? That is, for example, to avoid higher rates from one group for a less distance than apply from another group for a longer distance.

A. I don't think the Midland Electric formula could be applied in an adjustment of this kind. We have our four Indiana groups which were not involved in the Midland [fol. 2382] Electric Case. Those four Indiana groups are related to each other there, and I do not believe that the relationship should be changed.

I do believe that the relationship, where it has been changed, should be restored between those four Indiana groups, and the fact that the distance from the Boonville group versus some of the other Illinois groups might vary a little should not be justification for changing the group relationship which should exist and does exist between certain points as to the Indiana groups themselves.

We cannot overlook the fact that those four Indiana groups are related one to each other; that I represent the majority of the operators, all the large operators in those four groups, and I am speaking for them when I say that we are satisfied with that standard differential relationship between those groups. To my knowledge, there is not one operator that objects to it. We are satisfied with it, and are not asking any change, either the Brazil-Clinton or the Linton-Sullivan operators on the — hand, or the other two groups on the other.

Q. What difference does it make whether you call one group a base group and another group a differential? You mentioned "base group" several times with emphasis.

I have this in mind, exactly. If the average distance from one group be the same as from another, would you say that the rate to a given point should be higher from one than from the other, because you call one a base group and [fol. 2383] the other a differential group, provided the transportation conditions are similar from both groups?

A. No, I wouldn't say the mere fact that one is called a base group and the other is called a base group would have any effect on it.

Mr. Stadell: Differential group, you mean.

The Witness: We have, however, in all of these adjustments, recognized a so-called base group from which the rates are made and rates on some sort of a scale and rates to the other groups definitely related to the base group.

In most of these cases the base group has been Illinois. Our recognized and so-called base group in Indiana has been the Brazil-Clinton group with Southern Illinois, or, if you wish, Brazil-Clinton with Springfield; but we have recognized Southern Illinois——

Exam. Trezise: Just a minute, Mr. Scott, it seems that you are wanted on the telephone.

(Short interruption.)

The Witness: Where did I leave off?

(Record read.)

The Witness: I think I had better start that over. May I have the Examiner's question, if you don't mind, please?

(Question read.)

The Witness: On the assumption, or the admission that transportation charges are the same from Illinois and Indi-
[fol. 2384] ana to this destination territory, I think the difference between a base group and a group that may be differentially related to another group is this: that no one in this proceeding would advocate making rates from all the groups on a distance basis. Therefore you must, of necessity, pick out a base group and you must relate the rates from the other groups to that base group.

Now, if you were, for example, to pick out—it has been talked about in the testimony in this case—Southern Illinois and Boonville, and were to make rates from Boonville with relationship to the rates from Southern Illinois, based on the fact that the differential may be comparable, then you would be definitely ignoring the relationship that exists between the Boonville group on the one hand and the three groups in Indiana, Princeton-Ayrshire, Linton-Sullivan and Boonville to the north. I do not think that in any adjustment of this kind that you can handle this thing piecemeal; it must be looked on as a whole. All origin groups must be taken into consideration in arriving at the rates from any one group.

By Exam. Trezise:

Q. So therefore your conclusion is that by virtue of this sacredness of the origin groups in Indiana, you would continue the perpetual situation as shown in your Exhibit 23, on page 6, where the rate to Forreston, Illinois, from Southern Illinois is 353 miles, at present the rate of $2.10, and 5 cents less than that from Boonville for 431 miles, [fol. 2385] a greater distance by 78 miles. That is what you say should be done and continued?

A. No, sir. I say that differential should be made 10 cents under Southern Illinois. I say that that is a differential applying to the territory north of Northern Illinois, and that Forreston should not be increased out here on the Northern Illinois group, be singled out, any more than should the Northern Illinois be singled out from the entire Northwest, in what is known as destination territory A.

You are taking one group, Southern Illinois, comparing with another group, Boonville, comparing the distances to one destination, Forreston; and in an adjustment of this kind, rates, in my opinion, cannot be made that way. You must take the entire destination territory, consider the entire origin groups, each and every one of them as a whole, and consider them.

Q. That was very enlightening, but if I would go out and pick some more points up there, I would find the distances to the Northwest territory were 98 miles greater from Boonville rather than 78 miles.

A. Well, then, Mr. Examiner, I would add this to what I have already said, that the Commission, the Interstate Commerce Commission, before whom this proceeding is, have themselves said that relationships, group relationships should be maintained until there is good and sufficient reason for changing them.

[fol. 2386] They have further said that distance is not a primary factor in a group adjustment of this kind, such as we have before us here.

Taking those two statements of the Interstate Commerce Commission into consideration, there should not be any change in the differential adjustment, other than the standard differentials here in existence today, and the standard differential that has been disrupted in 1930 by reduction of the rates from Illinois groups should be restored.

Q. The Commission has said just what you have said and it was applied, as they have said, distance is ignored; but do you know of any other instance where the distances from one whole group having a greater distance is less than a nearer group, the whole of a nearer group? Do you think the Commission had that particular thing in mind?

A. I think I could, if I looked over the adjustments, I think I could find that.

Q. All right. Now, you do think that is true. You think you could find such a proposition as that, where the whole group distances, the average is less, but the rate is greater than from another group. You think you could find that.

Now, if you could find that, you also quote another statement there that distance is ignored. Now, you mentioned that it was ignored——

A. Not ignored. I used the term, please, that it was not a [fol. 2387] primary factor.

Q. All right, we will take that back; not ignored. I asked you, though, a while ago, do you think that the competitive situation between the origin groups in Indiana is so important as a principle that distance should be ignored to such an extent that you could apply lower rates for greater distances from Indiana than from any groups, whether it is Southern Illinois or any other groups, with higher rates for shorter distances from Illinois, and you said yes. You would do that?

A. I would do that, because there is a definite——

Q. And it is so important. Then isn't that a question of ignoring distance for competitive reasons?

A. No, sir. I pointed it out this way. We take distance into consideration and give it its proper place in considering this adjustment, but its proper place is not the head of the list. You would take Southern Illinois, which is, as you have stated, Mr. Examiner, as the comparable distance, or possibly a shorter distance——

Q. Well, it has a shorter distance.

A. To some destinations, all right.

Q. To certain destinations and to that territory. I will go with you; to that territory. I won't pick out one point.

A. There are a lot of destinations in there where the distance is comparable, where it might be slightly less. Marengo might be.

[fol. 2388] Q. What you are talking about is that if we took all of these points in Northern Illinois and put them together, that we would find that the distances from Boonville would be sufficiently less than from Southern Illinois?

A. No.

Q. To the same group of destinations up here——

A. No, sir.

By Mr. Wilkinson:

Q. Well, wouldn't you find this, Mr. Scott, and isn't this part of the consideration, that via the two carriers that serve Princeton, and Boonville as related to Princeton, you have got a relationship there; then Boonville came in, Boonville itself and Southern Illinois, isn't that the way that relationship grew up?

A. That is right. That is what I have been trying to explain. In other words, to make rates between Southern Illinois on the one hand, Boonville on the other, you would ignore—to do that you would ignore the relationship that exists between the Indiana groups themselves.

Further, I would like to point out, Mr. Examiner, in giving consideration to distances from the Boonville district, it has been a matter of record in this case that the Southern Railway, for its own operating convenience, elects to haul the traffic via Huntingburg, which is a greater distance than it normally should haul it via Evansville, and that some consideration should be given to that, that the carriers [fol. 2389] for their own convenience haul it that way.

By Exam. Trezise:

Q. Do we not have the same sort of a situation where the average distance—I don't mean to one point, I will take all the points and I am trying to get your help on that. Isn't it a fact that from the Princeton-Ayrshire group that we have to Northern Illinois, the points here, if we put them all together, we have a greater distance from the Princeton-Ayrshire group with a less rate than from Southern Illinois or from the Illinois groups?

A. I think I had better get my exhibits out, instead of using Southern Illinois.

Q. Well, I don't want to go into that. I am groping around to try to find some solution that will help you gentlemen out here.

Now, if you don't want this thing solved, why, that's another proposition. I would be glad to help you. I am only giving you my thoughts on it and asking you some questions to see if you could agree, by some little adjustment here—it may not be much—that we could arrive at something; that nobody seems to be satisfied, even the railroads. They say they are dissatisfied with the rates. And in that state of affairs, it might be possible for some people to give a little and others to take a little and reach a logical adjustment where, for longer distances as ordinarily, the rate is higher than for shorter distances.

A. I still object to that, Mr. Examiner. I would like to [fol. 2390] point this out, that the Southern Railway testified here in this proceedings—who serve the Boonville group—that they were satisfied with the standard adjustment, that they had refused to increase their rates from the Boonville group to Beloit, Wisconsin, because the rates from Southern Illinois were not increased; so that the origin carrier in the Boonville group is not dissatisfied with the standard adjustment.

I do not think that consideration should be given to the Princeton-Ayrshire group or the Boonville group on the one hand, and Southern Illinois on the other and arrive at rates on those bases, because that would totally disregard our relationship between the Indiana groups. Just as you term it would be doing something there, you would be creating chaos in the Indiana fields themselves, so you would not be settling anything.

Q. So that this chaos that would be created in the Indiana field would be brought about by regarding distances to a greater extent by applying a somewhat—probably not a higher rate at all. If you include Boonville with the Princeton-Ayrshire group, maybe the whole group might have even an advantageous rate in comparison, but it would be on a distance basis.

I suggest those things, hoping I might fulfill my boy scout duty for today.

Mr. Biaett: May I ask Mr. Scott—had you finished?

Exam. Trezise: I think he wants to say something, and [fol. 2391] we had better let him——

By Exam. Trezise:

Q. Have you something to say to that?

A. Yes, sir, Mr. Examiner.

Exam. Trezise: Very well.

The Witness: I do not believe that the Interstate Commerce Commission, the railroads or any other body should make distance a primary factor in arriving at the rates from these groups. In my opinion to do so, to change the relationship from the standard relationship to anything else, or not to restore the relationship that prior existed to this destination territory where it has been disrupted by the 1930 reductions, would be harmful to the Boonville group or the Princeton-Ayrshire group, harmful to the extent that they would——

Mr. Stadell: Now, I object to the speech that the witness is making. He has previously testified here that he doesn't know anything about the qualities of the coals produced by these mines in these various groups, that he doesn't know anything about the cost of production, he doesn't know anything about the selling prices, and his testimony that he is trying to give here is entirely incompetent. He doesn't know anything about the factors on which the testimony has to be based. I object to it.

Exam. Trezise: Let's pass that with this word: that every suggestion that the Examiner has made here, each and all of them, I think you do not agree with them, is that correct, [fol. 2392] and let me point out what they were—and you do not agree with any one of them, that that would be the solution.

The first one was that if we adjusted the rates from Indiana and Illinois, or modified them in instances where the Indiana rates from Boonville, for example—only for example—are lower to a given destination or destination territory, I will say, than they are from Illinois for shorter hauls, you say that would not tend to curtail these annual controversies between Illinois and Indiana but would disrupt the Indiana groups and cause chaos there.

By Exam. Trezise:

Q. Is that substantially correct?

A. Yes, sir. To cure Illinois you will kill Indiana.

Q. And second, you say that it would not tend to correct the situation that we have here and possibly have had for the last eight or ten years by fixing rates on a prescribed basis, as was attempted in the Midland Electric Case, avoiding higher rates from one group for a less distance than from another group for a longer distance; and you say no, that shouldn't be done, is that right?

A. That is giving too much consideration, in fact that is giving all the consideration to distance alone.

Q. Consideration to distance shouldn't be given in fixing differentials?

A. Not alone, Mr. Examiner.

Q. Well, at all; at all. Any consideration?

[fol. 2393] A. I am sorry, but that last formula you gave me takes into consideration distance only.

Q. Yes, distance. When one group is farther away than the other, you say that should be ignored and the farther away group should be moved nearer because of competitive conditions?

A. Mr. Examiner, may I, sir, please, point out that in Indiana we have our adjustment just that way. As you go further away, our differentials increase, Brazil-Clinton the base, Linton-Sullivan 10 cents over standard differential, 7 cents Princeton-Ayrshire over Linton-Sullivan and 3 cents Boonville over Princeton-Ayrshire. That formula is followed in our Indiana adjustment. But that is not the major factor to take into consideration in making that adjustment.

Q. Well, you do agree that distance has something to do with differentials?

A. Oh, yes, I would.

Q. But not sufficient to prevent lower rates for groups that are farther away?

A. Not when you set out Southern Illinois and Boonville and compare them, sir.

Q. Yes, and Princeton-Ayrshire. Put them in there.

A. The average distance from Princeton-Ayrshire to this whole destination territory, at least to the representative destination territory used by the carriers, is less than Southern Illinois.

[fol. 2394] Q. Then the other point that you made, that you think that competitive conditions between the origin groups in Indiana are so important as a principle that

distance should be ignored to the extent that higher rates should be charged, we will say, from Southern Illinois for a lesser distance than are charged from Boonville, for example, for a longer distance?

A. Yes, sir, because in a group adjustment of this kind, involving 14 or 15 origin groups, that situation is bound to crop up.

Q. You do agree with the Examiner on this one point, that if the average distance from one group be the same as from another, you say that the rate to a given destination should normally be the same as from another group of the same distance, provided the transportation conditions are the same, and that the mere fact one is called a base group and the other is called a differential group would not impair the integrity of that statement?

A. No, sir, I did not. If I said that I didn't mean to imply that in my answer before. The mere fact that the distances between two groups are similar or comparable should not be the basis on which to—and transportation conditions being similar—should not be the basis on which the rates should be set. Other considerations must be taken into consideration, Mr. Examiner; other factors, rather. Your competitive conditions. You understand that besides the [fol. 2395] operators' right to compete with each other, all the groups have a right to compete with another group; the carriers serving those same origin groups, all those must be given the right to compete with each other, and to shut off one group from a given market not only puts the operator out of that market but also puts the carrier serving that particular group out of that market, and the revenues suffer accordingly.

By Mr. Wilkinson:

You did say that the name that you applied to the group didn't mean anything, whether you called it the base group or a differential group; that has nothing to do with it?

A. No, sir.

By Exam. Trezise:

Q. All right, that is the one point that I was trying to say that you did agree with me, that the name shouldn't change the rate.

A. A base group, differential or a differential related group is not of major importance.

Exam. Trezise: Well, I am glad to have you help me in that respect. I think if no one else has any questions——

Mr. Biaett: I have a couple of questions.

Exam. Trezise: Mr. Biaett.

Cross examination.

By Mr. Biaett:

Q. Mr. Scott, in making your statement that you didn't think that the parties in this proceedings thought that rates should be made with regard to distance, as I understood [fol. 2396] your statement, you were referring to the application of a mileage scale from all groups, were you not?

A. Or the difference in the distance between those groups being given the major consideration or the only consideration in arriving at the differentials that might apply between those groups.

Q. Now, you seem to lay considerable stress upon the fact that the Commission has frequently stated that distance was not a controlling element in coal rate adjustments, do you not?

A. I think that—yes, sir, I do.

Q. Now, do you know of any case in which the Commission has stated as a principle that distance was not controlling, in which it prescribed a lower rate from a greater distant group than that applicable from the less distant group?

A. I know of a case in which the Commission made that statement, in which rates such as you describe were involved, yes, sir.

Q. Were involved, but not prescribed?

A. There was no prescription; there was approval given, approval to the differentials and differences in the rates that existed.

Q. That, of course, was 25595, was it not?

A. I believe that is it, and I believe they made some similar remark in 4368.

By Mr. Stadell:

[fol. 2397] Q. And that is the only case you know of on that point?

A. Right now. I might be able to find others if I looked.

Mr. Biaett: All right, that is all.

(Witness excused.)

Exam. Trezise: Ten o'clock tomorrow morning.

(At 4:40 p. m., October 4th, 1943, adjourned until 10:00 a. m., October 5th, 1943.)

[fol. 2398]

Morrison Hotel,
Chicago, Illinois,
October 5, 1943.

The hearing was resumed pursuant to adjournment at 10:00 o'clock a. m.

Before:

R. N. Trezise, Examiner.
W. C. Kaylor, Illinois Commerce Commission.
Appearances: As heretofore noted.

PROCEEDINGS

Exam. Trezise: All right, gentlemen, when you are ready will you begin.

A. J. CHRISTIANSEN, resumed:

Cross examination (Continued).

By Mr. Biaett:

Q. Mr. Christiansen, as I understand it, you are appearing in these proceedings, that is, Docket 28881 and I. & S. 5139 and the Illinois suspension case and the Dixon case, in behalf of Middle States Fuels, Incorporated, and Northern Illinois Coal Trade Association, is that correct?

A. Yes, sir.

Q. And the members of those two organizations own and operate mines in what is commonly known as the Fulton County District, do they not?

A. And Northern Illinois, yes, sir.

Q. And the Northern Illinois group?

[fol. 2399] A. That is right.

Q. Do the members of those organizations own and operate mines located at Peoria?

A. In the City of Peoria? No, sir.

Q. No members of your organization own or operate mines at Peoria, which is commonly known as the Peoria district?

A. No, sir.

Q. Do members of your organization own and operate the mines at Victoria?

A. Yes, sir.

Q. And at Alpha?

A. Yes, sir.

Q. And at Atkinson?

A. Yes, sir.

Q. Now, it is your contention, as I understand it, that the mines in the Fulton County district, the Peoria district, Victoria, Alpha and Atkinson should all take the same rates?

A. To this territory, you mean?

Q. In Northern Illinois.

A. To the affected territory, yes, sir.

Q. Now, can you tell me what is the geographical location of the largest mines in the Fulton County group with respect to Galesburg?

A. They are south and east of Galesburg.

Q. They are located, are they not, in the vicinity of Farm-

[fol. 2400] ington, Lewistown, Canton, Cuba, St. David?

A. Yes, they are located there. There is a big mine at Atkinson. There is a big mine at Victoria.

Q. Can you tell me where Victoria is located with respect to Galesburg?

A. East of Galesburg.

Q. North and east of Galesburg, is it not?

A. It is about straight east.

Q. The mine at Alpha is north of Galesburg, is it not?

A. That is correct.

Q. The mine at Atkinson is north of Galesburg?

A. Nort' east.

Q. Nort[illegible]ast of Galesburg?

A. Yes.

Q. Can you tell me the approximate distance from Lewistown to Galesburg?

A. Not offhand. It is shown in the mileage table.

Q. Can you tell me if it is farther from Lewistown to Galesburg than it is from Lewistown to Rushville?

A. I don't know.

Q. Could you give me the distance from Galesburg to Alpha?

A. I think it is either 15 or 18 miles.

Q. And from Alpha to Atkinson?

A. They are not on the same line of railroad, so it would have to move through the Tri-Cities to get to Atkinson.

[fol. 2401] Q. It would have to move through Rock Island?

A. Alpha and Atkinson are both in Henry County.

Q. Now, on page 15 of your prepared statement, you referred to Rochelle and the distance from Fulton-Peoria district to Rochelle and you show that distance on Exhibit 80, do you not?

A. I show the average distance to Rochelle on Exhibit 80, yes.

Q. And that distance is computed via the route over which the rate applies from the Fulton-Peoria district to Rockford, is it not?

A. It is shown both ways on Exhibit 80.

Q. It is shown both ways?

A. Yes, sir.

Q. The distance you used in computing your average distances from the Fulton-Peoria district to Rochelle is the distance computed via the route over which the rate to Rockford applies?

A. That is right, via C. B. & Q. to Mendota and the Milwaukee Railroad.

Q. And the reason you did that is because you contend that the rate to Rockford should apply at Rochelle because of the application of the intermediate rule?

A. It actually does. There isn't any contention about it.

Q. Can you tell me if there is any specific rate published from Fulton-Peoria district or Fulton County to Rochelle?

A. Via that route?

Q. No, is there a rate published?

[fol. 2402] A. Certainly there is a rate published.

Q. A specific rate is published to Rochelle?

A. Yes, sure.

Q. Via what route does that rate apply?

A. C. B. & Q. direct from C. B. & Q. mines.

Q. You know, Mr. Christiansen, do you not, that the intermediate rule does not apply to points where a specific rate is published?

A. No, I don't know that. It does via another line of railroad.

Q. What do you mean by that?

A. In other words, there is no specific rate published via the C. B. & Q., Mendota, and the Milwaukee, to Rochelle. There is a rate published to Rockford beyond and under the Illinois law the intermediate application applies. You can't have a rate in Illinois unless there is 40th Section relief, and there isn't any to Rochelle.

Q. Doesn't the tariff provide, Mr. Christiansen, that where there is a specific rate published the intermediate rule will not apply?

A. That is all right where a specific rate is published via the same line. There isn't any specific rate published to Rochelle via C. B. & Q. to Mendota.

Q. Then you do not find the route which you have used in connection with the specific rate which is published from [fol. 2403] Fulton County to Rochelle?

A. No, I do not. I used the shorter route.

Q. Will you turn to your exhibit 81, please, on page 1, for example, from the Fulton-Peoria district to Chicago, Illinois, you show that there are rates in effect of $1.48, $1.53 and $1.65?

A. That is correct.

Q. Then using the going rate from the Fulton-Peoria district you show the going rate is $1.65 and $1.53?

A. That is correct.

Q. Now, the $1.53 rate applies only from Peoria, does it not?

A. That is correct.

Q. Now, the $1.65 rate applies from the mines in the Fulton County District, does it not?

A. That is correct.

Q. And the $1.48 rate applies from the mine at Victoria, does it not?

A. No, sir.

Q. Well, from what mine?

A. It applies from Atkinson.

Q. From Atkinson to Chicago?

A. That is correct.

Q. What is the rate from Victoria to Chicago?

A. The Victoria rate is $1.59.

Q. $1.59?

[fol. 2404] A. That is correct.

Q. So that you have a rate from Victoria which you have not shown on this exhibit, do you not?

A. It is shown on the detail on page 3. Evidently it didn't get transferred over.

Q. Now, this $1.65 rate which you use as the going rate from Fulton-Peoria District, that applies from the large mines which are located in the vicinity of Farmington, Lewistown, St. David, does it not?

A. That is correct, yes, sir.

Q. And the same is true of the number of rates which you show to Davenport, Dubuque, Linwood, Moline, Rock Island, Savanna, is it not, the same explanation?

A. To Davenport and Linwood the rate shown of 90 cents—as an illustration, to Davenport there, the 90 cent rate applies from Atkinson and Victoria. The $1.25 rate is the Fulton County going rate. This is strictly short haul territory. The distance from Atkinson to Davenport is only 35 miles.

Q. From Atkinson?

A. That is right; 38.

Q. And from Alpha to Davenport it is even less than that, is it not?

A. Atkinson is 31.3 miles and Alpha is 39.6 miles to Davenport.

Q. Now, I notice at Savanna you show rates of $1.25, $1.74 and $2.00.

[fol. 2405] A. That is correct.

Q. From what districts do those rates apply?

A. Fulton County District. The $1.25 rate applies from Atkinson and Alpha. The $1.74 and $1.57 rate applies from various Fulton County mines. The $2.00 rate and the $1.75 rate applies from Peoria.

Q. Now, Mr. Christiansen, I presume that this exhibit is introduced in justification of your contention that all of the mines in this broad Fulton-Peoria District which you take into consideration should be the same to the Northern Illinois territory, is it not?

A. This territory is not the affected territory. This is the compared territory.

Q. Yes. Now, the fact that the mines at Atkinson, Alpha, Victoria, Fulton County, do not take the same rates to this compared territory, I presume you are submitting in justification of the fact that all of these mines should take the same rates to Northern Illinois?

A. No. You are looking at the wrong picture. You are looking at points like Davenport, Iowa, where Alpha and Atkinson are really short hauls, around 35 miles. But take any point in this territory in the northern part of the state of Illinois or in Wisconsin and you will find that Fulton County, Alpha, Atkinson, Victoria and Peoria have the same rates. Now, we are getting into a new territory here. [fol. 2406] Just like you have at Springfield, you have a lower rate to Bloomington, you have a lower rate to Decatur from one Springfield point than you do from another Springfield origin point. But that isn't any reason why they shouldn't be all the same when you go to Wausau, Wisconsin, or Beloit, Minneapolis. You are in a new territory.

Q. Dubuque, Iowa, I notice you show rates of $1.73 and $2.19.

A. Yes, sir. The $1.73 rate was within that 100 miles west of the Mississippi River territory that was prescribed

by the Interstate Commerce Commission to Dubuque, Iowa. Now, the $2.19 was the rate that was also prescribed in that case to Dubuque, Iowa, from the Fulton County District. But here you have a situation where Dubuque does have lower rates. But the carriers are not proposing lower rates from Alpha and Atkinson and Victoria to this territory. They are proposing the same rates. Now, if they are going to publish the same rates or higher rates from these nearby points, you certainly must include them in figuring mileage. If you want to come forth now and offer lower rates from Alpha, Victoria and Atkinson, very good, we will take it. But you want to propose the lower rates—or the higher rates from Alpha and Atkinson, but you don't want to use them in figuring mileages to measure that level.

Q. As a matter of fact, to most of this territory involved in this area, Alpha and Atkinson and Fulton County and Peoria take different rates, do they not?

[fol. 2407] A. No, not to the affected territory.

Q. I am talking about to the general territory for distances up to 125 miles.

A. No, I am talking about the affected territory. They take the same rates to the affected territory. That is what we are considering here, not the territory in Springfield, not the territory in Iowa, not the territory in Peoria proper. They take a different rate—as a matter of fact, to Canton, Illinois, there is a different rate than to Rockford.

Q. Well, both of those points are located in the Fulton County field?

A. Yes, but that is a new territory. Here is a new territory. We are not making rates into this territory here. We are making rates to the affected territory.

Mr. Vesey: What do you mean by "this territory"?

The Witness: The territory referred to in Exhibit 80.

By Mr. Biaett:

Q. Then what I want to get at, you are not contending anything different than the carriers are actually doing, are you?

A. No, except that I want them to use the mileage from the nearby points. I don't want to take a group, take a group

like Springfield district—suppose you took the Springfield district today and said, well, because Springfield has a lower rate to Bloomington, Illinois, than Mount Olive, we will only use Mount Olive mileage to measure the rates to [fol. 2408] Wisconsin. That is wrong. If you are going to take the Springfield rates and give them the same rate to Mount Olive as Beloit, Wisconsin, or Wausau, certainly you wouldn't take only Mount Olive. Now, what you are trying to do is to give Atkinson the same rate as Fulton County, but you don't want to use the mileage to measure that rate.

Q. Mr. Christiansen, in view of the fact that Atkinson and Alpha, Victoria, Peoria and Fulton County take different rates to this compared territory that you show on page 1 of Exhibit 81, isn't there a question of the reasonableness of the rate measured by the distance from those particular mines to the suspended territory?

A. No, sir, it is not. Just because they happen to have a different rate to some different territory, it doesn't mean they have to be used to measure the level of the rates to the affected territory.

Q. Just because they happen to take the same rates you think to this particular territory they should be included in the Fulton-Peoria group?

A. That is correct.

Q. Now, will you please refer to your exhibit 83, this announcement of the Interstate Commerce Commission, dated April 23, 1925. Did that apply to the territory in Northern Illinois to which rates are under suspension and involved in the 13th Section case in these proceedings?

[fol. 2409] A. Only as far as Beloit, Wisconsin, there is a proposal to relate Northern Illinois to Beloit. In other words, if the Beloit rate is wrong now it should be corrected back to the basis announced in 1925. Then the Rockford rate made 15 cents under that would be a different rate than that the carriers propose.

Q. Then it is submitted, is it not, purely for the purpose, following up your contention, that the rates to Beloit are on an improper basis at this time?

A. Certainly, and Beloit is one of the key compared points in which you are trying to fit Northern Illinois into,

and certainly if that is unreasonable, why, it has got to be corrected before you can fix up the Illinois.

Q. But it is only one point out of several.

A. It is the most important because it is the one where the 15 cents order applies, that is, the 15 cent order to make Beloit and Rockford 15 cents apart.

Q. I notice that this announcement indicates that a conference was held by the various parties who were involved.

A. That is right.

Q. Were you present at any of the conferences which were held?

A. No, my people were. I wasn't.

Q. And this announcement is merely a compromise of a pending investigation and suspension case, is it not?

A. That is right, and a complaint case.

[fol. 2410] Q. And a complaint case?

A. That is right.

Q. The carriers could have gone ahead and published the rates which were agreed to without the formality of this announcement, could they not?

A. Yes. The Commission only sent the notice around so everybody would know what was agreed to.

Q. I notice on page 2, numeral paragraph 2, that this 79 cent differential to which you refer, Fulton-Peoria under Southern Illinois, was subject to a minimum rate of $1.90 a ton?

A. That is correct.

Q. Now, that minimum rate applied not only to Beloit, Wisconsin, but it also applied to all points in Wisconsin on and south of the line of the Milwaukee, from Milwaukee, Wisconsin, to Prairie du Chien, Wisconsin, did it not?

A. It has no effect, because Beloit was the closest point and the rate published to Beloit was $1.96 or 6 cents higher than the minimum. So it had no effect to any Wisconsin point.

Q. So as far as that minimum was concerned, it wasn't taken into consideration?

A. It didn't have to be, so long as the rate from Southern Illinois was $2.75 to all of that compared territory.

Exam. Trezise: You don't have to talk quite so fast, Mr. Christiansen.

By Mr. Biaett:

[fol. 2411] Q. It was also subject, was it not, to the present or suspended rates, whichever were lower?

A. Yes, that was true.

Q. But none of them were below $1.90, I take it?

A. That is correct.

Q. Now, as I understood you, the rate was actually published from Fulton-Peoria to Beloit at $1.96 a ton?

A. That is correct.

Q. What is the present rate from Fulton-Peoria to Beloit?

A. $1.80.

Q. Does that rate include Ex Parte increases or general increases?

A. 15 cents, Ex parte 115.

Q. 10 cents?

A. 15 cents.

Q. So that excluding Ex Parte 115 increase, the present rate from Fulton-Peoria to Beloit would be $1.65, would it not?

A. That is correct.

Q. And that is approximately 31 cents lower than the rate which was published to Beloit on July 19, 1925?

A. That is correct, 31 cents lower from Fulton County, 50 cents from all the other origin groups.

Q. And it was 25 cents lower than the minimum which was established in the Hardie announcement?

A. That is correct. But you can't have a minimum from some particular close in group and then reduce the rates [fol. 2412] from all other origin groups 50 cents or $1.00 a ton and expect that minimum to remain. It just can't be done.

Q. Well, as far as this announcement is concerned, it prescribes the minimum rate?

A. That is correct.

Q. And you are basing your contention for a 79 cent differential on this announcement?

A. No, only on the relationship that is established in that announcement.

Q. Might not a change in the level of the rates require a change in the relationship?

A. They ought to increase if they reduced the rates.

Q. It should increase?

A. That is right.

Mr. Vesey: The differential, you mean?

Mr. Biaett: For what reason?

The Witness: Well, I wouldn't say increase; it ought to remain the same.

By Mr. Biaett:

Q. It should remain the same?

A. That is right.

Q. And on a percentage basis, taking in the reduced rates from Fulton-Peoria and the reduced rates from Southern Illinois, it should be decreased?

A. No, it should not.

Q. It would be on a percentage basis?

[fol. 2413] A. It would be on a percentage basis, but Southern Illinois or no one else here wants the rates decreased or increased on a general increase on a percentage basis, because if you do, the short haul- gain.

Q. You are speaking for all parties in making that statement?

A. I know the attitude of both the Commission and the carriers and the Southern Illinois and Indiana operators. When the differential does exist, they don't want rates increased on a general increase on a percentage basis.

Q. On page 25 of your prepared statement you make the blunt assertion that the minimum rate from Fulton-Peoria to Beloit of $1.90 provided for in the 1925 agreement was predicated upon a rate of $2.75 a ton applying from Southern Illinois to Beloit.

A. That is right.

Q. Will you show me where in the Hardie announcement a rate of $2.75 from Southern Illinois to Beloit is mentioned?

A. Yes. $1.96 was the rate from Fulton-Peoria to Beloit, Wisconsin, and the differential was made 79 cents. If you add 79 cents to $1.96, you get $2.75.

Q. Where in this announcement is the $1.96 rate mentioned?

A. It is only mentioned in connection with paragraph 2, where it says the present rate—the present or suspended rate; whichever was lower, would remain in effect. It

happened to be the present rate at that time, the $1.96, as I understand.

[fol. 2414] Q. Well then, you could say it was predicated upon a rate of $2.65 from Boonville, could you not, just as well as you could say it was predicated upon the $2.75 rate from Southern Illinois?

A. No, I don't think you could, because as I understand, there weren't any rates from Boonville at that time.

Q. Well, it could be predicated upon the rate from Princeton, just as well, by using your reasoning?

A. That is right.

Q. But no place in the Hardie announcement does it refer to a specific rate of $2.75 from southern Illinois to Beloit?

A. No, sir.

Q. Now, will you turn to your Exhibit 85, please, page 2.

A. Yes, sir.

Q. On that page you show the so-called Midland Electric Scale. Will you tell me from what districts and to what points that scale was prescribed?

A. It was prescribed from the Fulton-Peoria district to interior Iowa destinations.

Q. And that scale was prescribed as a reasonable maximum of rates from the Fulton-Peoria district to interior Iowa destinations, was it not?

A. That is correct.

Q. Now, it was my impression from this Exhibit 85 that you contend that rates from Fulton-Peoria to, let us say, [fol. 2415] Rockford and the rates from Southern Illinois to Rockford should reflect the same percentage of the Midland scale.

A. No, I did not say that.

Q. Well then, these comparisons which are contained in your exhibit are not to be construed as indicating a contention that Fulton-Peoria should have the same percentage of the Midland scale as Southern Illinois to Rockford?

A. No, sir, it doesn't show anything like that.

Q. Well, the percentages are shown, are they not?

A. Oh, yes, but they are not the same.

Q. It does show, does it not, that the rates from Fulton-Peoria to Rockford are a different percentage of the Midland scale than the rates from Southern Illinois to Rockford?

A. Yes, sir.

Q. Now, can you tell me if the Midland Scale was prescribed from Southern Illinois to interior Iowa?

A. No, sir, it was prescribed from Fulton-Peoria as the base group, and Southern Illinois was made 70 cents over, for approximately the same distance as applies from Fulton-Peoria.

Q. It was also made 60 cents over for approximately the same distance, was it not?

A. No; for a longer haul.

Q. You are speaking of distance?

A. That is right.

Q. For a difference in distance it was also made 60 cents [fol. 2416] over, was it not?

A. The difference varied slightly, but the distance there, you had hauls of up to 600, 700 miles—600 miles from Southern Illinois, and naturally, as you move away from the district the same difference in distance might reflect a different differential, decrease. In the same way it would increase as you move toward the district. Rockford happens to be short haul or comparative short haul territory, compared to the territory in Western Iowa.

Q. Now, can you tell me if the Midland Electric scale was also prescribed from Western Kentucky to interior Iowa?

A. No, it was not. They weren't even involved in that case.

Q. How were the rates which were actually published from Western Kentucky to interior Iowa constructed?

A. They were made by use of the decision in the Western Kentucky cases which made them 35 cents over Southern Illinois, whatever Southern Illinois was they have to be 35 cents over.

Q. Now, will you turn to page 9 of your Exhibit 85, please. As I understand, this page of your exhibit, this last column, Column G shows what the rates from Fulton-Peoria to the Illinois destinations named would be if they were constructed on the same percentage of the Midland scale as the rates which were prescribed from Western Kentucky to Chicago?

A. That is correct.

Q. Now, to the points in the territory to which the Mid-
[fol. 2417] land scale was prescribed, that Midland scale was not prescribed from Western Kentucky, as you just stated?

A. No, sir, but we have measured it by what per cent the Western Kentucky rate is as prescribed in the last Western Kentucky case to Chicago. In other words, we found out what per cent they prescribed from Western Kentucky to Chicago of the scale. We didn't say they prescribed the scale.

Q. No, that is true; and you contend that the rates from the Fulton-Peoria district to these points should be measured by the same percentage of the Midland scale as they prescribed from Western Kentucky to Chicago?

Mr. Vesey: Are you asking the question or stating a fact?

Mr. Biavtt: I am asking a question.

The Witness: In this particular case I used the same percentage of the Midland scale to show what that rate would be from Fulton-Peoria to these destinations, having in mind that the carriers testified and made a strong case in the Western Kentucky case that transportation conditions are so much adverse from Western Kentucky to Chicago than they are in Illinois Freight Association territory that we ought to take that into consideration in prescribing a reasonable level of rates within the State of Illinois. Now, if 72.3 per cent of the Midland scale is proper from Western Kentucky to Chicago, with their adverse transportation conditions, then because our haul happened to be shorter we ought to apply something less
[fol. 2418] than we would normally apply if our haul was less.

Q. From Fulton-Peoria to interior Iowa 100 per cent of the Midland scale was prescribed?

A. That is correct.

Q. From Western Kentucky to interior Iowa did the rates reflect 100 per cent of the scale or something higher or lower of the scale?

A. They were $1.05 over Fulton County, whatever Fulton County was.

Q. And generally the rates which were actually published reflected a lower percentage of the scale than that applying from Fulton County?

A. Yes, that is right.

Q. Now, taking the Midland scale which you show in this exhibit, can you tell me if any of the rates which the carriers are proposing to Northern Illinois are on a higher level than the Midland scale itself?

A. I don't believe there are any that are actually higher, except from Atkinson there might be some. I think Atkinson to DeKalb is higher than the Midland scale.

Q. From the Fulton County District?

A. Well, as far as I am concerned, they are all Fulton-Peoria.

Q. Well, you have the computations from the Fulton County District. Are there any rates which are greater than 100 per cent of the Midland scale?

[fol. 2419] A. I would say there are none.

Q. Now, on page 3 of your exhibit you show the 23922 scale.

A. Yes, sir.

Q. I believe you stated that that scale was prescribed to apply over what you referred to as short circuit mileages.

A. That is correct.

Q. Can you tell me what percentage of that scale the proposed rate to Dixon is as measured by the averag shortest or average short tariff route mileages?

A. The full scale would produce a rate of $1.49 for 120 mile haul or $1.55 for a 130 mile haul.

Q. And the $1.55 is the rate which is proposed from Fulton County to Dixon?

A. That is correct.

Q. Now, can you tell me if the mileages were figured from the Fulton County District via the short circuit method, whether or not there would be any less than the distances figured via the shortest or short tariff route mileages?

A. By dropping one block, it would be 120 miles instead of being 121 or 122, and produce a rate under the 23922 scale of $1.49.

Q. Via what route would you shorten the distance?

A. I couldn't tell you without figuring it out.

Q. As a matter of fact, the only possible route over which traffic can move from Fulton-County to Dixon is the averag [fol. 2420] shortest or average short tariff route, is it not?

A. No, there are others.

Q. There are others, but they are longer, are they not?
A. No, sir.

Mr. Vesey: I didn't get your answer.
The Witness: I said, no, sir.

By Mr. Biaett:

Q. Now; on page 4 of that exhibit, you referred to the Holmes and Hallowell scale?

A. Yes, sir.

Q. Do any of the rates which the carriers are proposing from Fulton County, Peoria, Victoria, to the suspended destinations in Northern Illinois exceed that scale?

A. The only rates that exceed the actual application of the scale in the Northwest territory as shown in my exhibit No. 90 is the fine coal rate from Fulton-Peoria District to Beloit, Wisconsin, where the actual rate today is 100.1 per cent of the Holmes and Hallowell level.

Q. Well, that is a constructive method which you have used for lowering the scale, is it not? But the scale itself which was prescribed, are there any rates which are higher than that scale?

A. I don't believe so, except possibly from Atkinson.

Q. Are you familiar with the traffic for which the Holmes and Hallowell scale was prescribed?

A. In a general way.

[fol. 2421] Q. That traffic had received a prior rail haul, has it not?

A. Yes, but the Commission found it was a local rate.

Q. Did you answer, yes?

A. I said, yes, but the Commission found that that was a local rate that applied.

Q. And that it also paid a dumping charge at the lake ports?

A. Oh, yes, I would say it had.

Q. And it has paid a boat transportation charge, has it not?

A. That is correct.

Q. Are you familiar with the South Chicago Coal & Dock case?

A. I have read it, I guess.

Q. You recall in that decision the Commission found that the rates prescribed on the Holmes and Hallowell scale were in the nature of proportional rates because the traffic had received a prior rail and boat haul?

A. I believe there was something in there. The decision will speak for itself.

Mr. Stadell: Well now, I object to that question and answer, if the Examiner please, and move that the answer be stricken, on the ground that the report of the Commission itself is the best evidence.

Mr. Morgan: Why not remove the question.

Mr. Biaett: Mr. Examiner, I merely interjected the question because Mr. Christiansen had already told me what the Commission found, that they were local rates. The pur- [fol. 2422] pose of my question was to bring out the Commission had later decided they were in the nature of proportional rates because of these prior hauls.

Mr. Stadell: I disagree with that and I was in that case and I know we argued about it.

Exam. Trezise: Let us not argue, gentlemen. The decision will speak for itself.

By Mr. Biaett:

Q. Now, you stated on page 30 of your statement that the transportation conditions from the Head-of-the-Lakes are not admittedly as good as applying from this territory.

A. That is common knowledge.

Q. You were basing that on your common knowledge?

A. Yes. Everybody in the room knows it.

Q. Now, up to 160 miles, would you say the transportation conditions from the Head of the-Lakes were inferior to those applying from Fulton County to Sterling or Dixon or Rockford?

A. I wouldn't know whether they were actually inferior or not.

Mr. Vesey: May I ask one question here for the purpose of clarifying the record?

Mr. Biaett: Certainly.

By Mr. Vesey:

Q. Mr. Christiansen, when you use the term "Head-of-the-Lakes", what ports are you referring to?

A. Well, generally, Duluth and Superior, and I believe there are several other ports up there at the Head-of-the-Lakes.

[fol. 2423] Q. But do you refer, for example, to the west bank Lake Michigan ports?

A. No, sir.

Q. In other words, it is the Lake Superior ports you refer to when you use the phrase "Head-of-the-Lakes"?

A. That is correct.

Mr. Biaett: Those are the docks from which the scale was prescribed.

By Mr. Biaett:

Q. Now, in taking into consideration your common knowledge, do you agree with Mr. Rozene when he takes the position that the Holmes and Hallowell scale is comparatively low for the first 160 miles because the transportation conditions from the Duluth and Superior ports to the Twin Cities were ideal?

A. I think the H. & H. scale does have perhaps a slight abnormal gradation. I wouldn't say that it was particularly low. The thing is this, that as far as the Twin Cities are concerned, the rate from the Head-of-the-Lakes to the Twin Cities is 40 or 50 cents under the scale today.

Exam. Trezise: I didn't understand that you used that Holmes and Hallowell scale as a reasonable measure of any of your rates.

The Witness: No. We used it as a yardstick to measure other rates.

Exam. Trezise: You didn't use it as a reasonable measure [fol. 2424] of a rate?

The Witness: No, sir.

Mr. Vesey: Simply as a common denominator for comparing two rates.

Exam. Trezise: Yes.

By Mr. Biaett:

Q. Then you can't say up to 160 miles the transportation conditions under the H. & H. scale are admittedly superior to those from Fulton County to Northern Illinois?

A. No, I didn't say they were. I don't think they are as good.

Q. But you made no study of that condition?

A. No, sir.

Q. You don't know the roadbed, the curves, or the traffic density applying on that line?

A. No, sir.

Q. Do you know whether or not any gathering service is required at the Head-of-the-Lakes on coal moving to the Twin Cities?

A. No, sir.

Exam. Trezise: What point are you trying to make, Mr. Biaett? If he didn't use that, are you trying to develop new evidence of some kind?

Mr. Biaett: Well, he has used the scale and he is attempting to show that these rates in this territory are too high by use of the scale, taking it on a constructive basis.

Exam. Trezise: Are you doing that?

The Witness: No, sir. There is no comparison with the [fol. 2425] scale itself. The scale is used merely as a yardstick, and the carriers used it first in their exhibit. That is why I used it in mine. It was used merely as a yardstick to measure the level of the rates from one district as against another, or one destination territory as against another destination territory.

By Mr. Biaett:

Q. Is your Exhibit 89 the exhibit on which you show the constructive application of the scale? I am unable to find it right now.

A. Exhibit 90, I believe.

Q. And the purpose of that exhibit is introduced in this record not to show that the H. & H. scale is too high for application in this territory, I take it, from your last answer?

A. That exhibit was made up after Mr. Rozene had presented his Exhibits 37 and 38, in which he set forth what the level of the rates actually was in the Holmes and Hallowell territory as measured by the shortest tariff route, and I merely made this exhibit up to show what the level of the rates was from Fulton-Peoria to Beloit as measured by the level of the rates in the Holmes and Hallowell territory.

Exam. Trezise: But the scale that you compare rates with there, called the Holmes and Hallowell scale, is not in existence for application on any traffic?

The Witness: No, sir.

Exam. Trezise: So it couldn't be a measure of a reason-
[fol. 2426] able rate.

By Mr. Biaett:

Q. Now, throughout your exhibits you have referred to different class rate levels in the different territories. Are you familiar with Central Freight Association territory class rates?

A. Yes, sir, they are the same as apply in Illinois, as far as the level is concerned.

Q. Do you think that the class rate level should be taken into consideration in measuring coal rates?

A. Only in so far as it reflects the difference in transportation conditions in two territories.

Q. Well, in what manner do the differences in class rates reflect the differences in transportation conditions?

A. The class rates in Western Trunk Line territory Zone 1, Zone 2 and Zone 3, and in Illinois Freight Association territory, were fixed after an exhaustive investigation, and in that investigation the Commission made certain findings and observations as to levels of rates that ought to prevail because of different transportation conditions in the different territories, and I think that is one of the best tests to find out what the transportation conditions are, because that was a very exhaustive investigation.

Q. And it is your contention that the Commission should make coal rates along the lines of class rate levels?

A. At least they should make coal rates in this Illinois
[fol. 2427] Freight Association territory that are lower than

the level of rates which they make, for instance, from Missouri into Iowa where the class rates are on a higher basis.

Q. Now, when you say that the differences in the level of class rates reflects differences in transportation conditions, just what do you mean?

A. In the class rate investigation they had an exhaustive investigation, they had cost studies, they had studies of densities of traffic, and population, and single and double track railroad studies. I think they had just about everything they needed to ascertain whether one level was on a higher level than another or whether one territory was more difficult than another.

Q. And then in prescribing the level of class rates in C. F. A. territory and in prescribing the level of class rates in I. F. A. territory, they had that same data before them?

A. That is correct, and they prescribed the same level of class rates.

Q. That would indicate the transportation conditions in I. F. A. territory are the same as those in C. F. A. territory?

A. Approximately, yes.

Q. Mr. Christiansen, based on that assumption, would you be content to have your coal rates from Fulton County, always within the confines of I. F. A. territory, measured by the standard of reasonableness which the Commission [fol. 2428] has prescribed for coal rates in C. F. A. territory?

A. No, we don't compete with Ohio.

Q. You don't compete with Ohio?

A. No, sir.

Q. Well, you don't compete with anyone in this other destination territory, do you, as far as your Illinois, Indiana and Western Kentucky differentials are concerned?

A. We compete with ourselves.

Mr. Morgan: I object to that question, for the reason this witness was not put on for that purpose. He introduced no original evidence on that question, and the railroad carriers have thought it unnecessary to introduce any evidence on that purpose themselves, and they are merely

trying to build up their own case by introducing new evidence through this witness.

Exam. Trezise: Well, if you are going outside of the direct examination, the Examiner is very——

Mr. Biaett: I asked him the question because he said he didn't compete with the eastern carriers.

Exam. Trezise: Oh, that particular question.

Mr. Biaett: I will pass that if there is any objection to it, because everybody knows the answer to it.

By Mr. Biaett:

Q. Now, on page 6 of your Exhibit 85 you have a reference B in parentheses, basis 88 per cent of Holmes and Hallowell scale; is that taken from the report in the Hunts-
[fol. 2429] ville-Sinclair case?

A. I don't know whether they mentioned it, but the scale they prescribed was 88 per cent of the Holmes and Hallowell scale at that time.

Q. Did you ascertain that from your own computations?

A. I checked out some of those, yes.

Q. Now, I notice that you have an average Class D rate from Peoria of 14.5 cents per hundred pounds.

A. That is correct.

Q. By taking the distance and their Class D rate to 13 destinations in Northern Illinois, including Beloit, Wisconsin.

A. Yes, sir, the affected territory.

Q. And the bottom part of that page, you show average Class D rate from the North Missouri mines, that is, Huntsville, Belvidere, and Novinger, to five Iowa destinations is 20.3 cents per hundred pounds?

A. That is correct.

Q. Now, in one comparison you used 13 points, did you not?

A. That is correct.

Q. Now, why did you use only five points in your other comparison?

A. I had to pick points that were approximately the same distance as is reflected in the 13, namely, from around 120 miles to 220 miles. In fact, I have used destinations in the

Missouri-Iowa comparison that are slightly less mileage [fol. 2430] than the destinations in the Fulton County, Illinois Beloit, Wisconsin comparison. Had I used the points that had the same mileage or approximately the same mileage, I would have probably got a higher rate from the Missouri points, but I couldn't find enough towns that had the exact mileages of the 13 towns. In other words, I couldn't find 13 of them.

Q. Well now, let us look into that just a little bit, Mr. Christiansen. In the comparison at the top of the sheet, how many points in Northern Illinois did you take which were under 156 miles?

A. 7.

Q. And how many points from north Missouri did you take which have a distance under 156 miles?

A. One.

Q. Now, how many points in Northern Illinois, and including Beloit, did you take that have a distance under 178 miles?

Mr. Vesey: I object, if the Examiner please. We don't need to go over everything that is shown in the exhibit here. That is just reading the exhibit back into the record.

Exam. Trezise: Do you have a conclusion?

Mr. Biaett: Yes, sir, very definitely.

The Witness: Five points.

Mr. Vesey: Let us get the conclusion.

Mr. Biaett: Under 178 miles?

Mr. Vesey: Just a minute, I have an objection.

[fol. 2431] Exam. Trezise: Can't you just recite the facts to the witness and then ask him your question?

By Mr. Biaett:

Q. Well, there are twelve points under 175?

A. Yes. You are including the first group.

Q. And from north Missouri there are three points under 178 miles, is that correct?

A. That is right.

Q. Now, in taking a large number of points to Northern Illinois which have a low mileage and consequently a low Class D rate, you weight the average which you show to a

greater extent than you weighted the average from the North Missouri mines?

A. No, sir. All of those rates, for instance, 126 mile haul, 124 mile haul, 142 mile haul, 148 mile haul, 164 mile haul, and 171 mile haul, they all had a 14 cent rate.

Q. But you only used one point with an 18 cent rate from the North Misouri mines?

A. That is right.

Q. Now, if you had used twelve points with an 18 cent rate from the North Missouri mines, you would have secured a lower average rate, would you not?

A. No. Some of these twelve points that you referred to here have a 16 cent rate as against 14.

Q. Well, how many points have a 14 cent rate? There are seven, are there not?

A. Seven with a 14 cent rate.

[fol. 2432] Q. And if you had taken seven that had an 18 cent rate from north Missouri mines to Iowa, you would have a considerably less average rate?

Mr. Vesey: What do you mean by "considerably"?

Mr. Biaett: The witness can explain how much it is, if he knows.

Mr. Vesey: You made the statement. I asked you what you meant. Do you mean one point or two points, something like that?

Mr. Biaett: Well, at least two points.

The Witness: No, we would not.

By Mr. Biaett:

Q. You would not?

A. No, sir.

Q. Why not?

A. Because the relationship of 18 to 23 as against 14 to 16 is so close—well, you can figure it out. Take seven points with an 18 cent rate—well, we will take eight points with an 18 cent rate——

Mr. Biaett: Well, I don't think we need to go into it.

Mr. Vesey: Well, you asked for it.

The Witness: Now, just a minute. We will take eight points with an 18 cent rate, and that leaves five more, and those have 15 and 16 cent rates. We will take three of the

five and give them a 20 cent rate, and two of the five and give them a 23 cent rate.

[fol. 2433] By Mr. Biaett:

Q. Why take two of the five and give them a 23 cent rate?

A. You have two 16's here. I want to give you an even break. It would be 20 cents then instead of 20.3 cents.

Q. By using 13 points?

A. Yes, by using 13 points it would be 20 cents instead of 20.3 cents.

Mr. Vesey: In other words, it makes .3 difference as shown in your exhibit?

The Witness: Yes, sir.

By Mr. Biaett:

Q. On page 7 of your Exhibit 85 you show in Column J the differentials?

A. That is right.

Q. Do you know the rates which apply from the Fulton-Peoria District and Southern Illinois to those points?

A. It is shown. Yes, I know them.

Q. In what column are they shown?

A. They are not shown on this exhibit, but they are shown on other exhibits.

Q. Well, the rates to Wausau, Wisconsin, from Southern Illinois and Fulton-Peoria both are higher than they are to Dixon, are they not?

A. Absolutely. That is what the exhibit purports to show, as you get away in longer distances the percentage of mileage is of less importance. As you come closer it [fol. 2434] is more important, between two groups located approximately the same distance apart. Therefore, the differential ought to increase. Here it decreases.

Q. As far as the exhibit is concerned, it shows just the opposite, doesn't it, Mr. Christiansen?

A. No, it does not.

Mr. Vesey: I object, Mr. Examiner. Why argue over the fact of what is shown in the exhibit. You don't need to argue here with the witness.

Exam. Trezise: I think you gentlemen get along better if you just ask the questions and let the witness answer.

By Mr. Biaett:

Q. In other words, the point I am getting at, Mr. Christiansen, is simply this: do you know the rate from Southern Illinois to Wausau, Wisconsin?

Mr. Vesey: I object. We have asked that question at least twice already and it is in the record. Now, can't we go on from those points, or do we have to repeat exhibit after exhibit into the record here?

Mr. Biaett: I have no objection to swearing Mr. Vesey and having him sit up there alongside Mr. Christiansen and answer these questions.

Exam. Trezise: I don't know what point you are trying to make, Mr. Biaett.

The Witness: $3.70.

By Mr. Biaett:

Q. What is the rate to Dixon?

[fol. 2435] A. $2.00 to Dixon.

Q. What is the rate from Fulton County to Wausau?

A. $3.00.

Q. $3.00?

A. Correct.

Q. And the rate from Fulton County to Dixon is how much?

A. $1.50.

Q. So that the spread in the rates arises where the rates themselves are considerably higher than they are to Dixon, for example?

A. Yes, and that is the reverse process that ought to be in existence, in other words, the mileage as shown in Column I——

Exam. Trezise: Now, he didn't ask you whether it was a reverse process. Just answer the questions. You can explain your answer, but you are explaining something he didn't ask.

By Mr. Biaett:

Q. Now, on page 20 of your exhibit 85, you show comparisons of rates to Amboy?

A. Yes, sir.

Q. Those comparisons are made with the Midland Electric scale, are they not?

A. That is correct.

Q. Now, can you tell me if measured by the Midland Electric scale the rates from Fulton-Peoria to Amboy, Illinois, are on a higher or lower level than those to an average of seven Wisconsin destinations?

[fol. 2436] A. The Fulton-Peoria rates are on a lower level than the average of the Wisconsin destinations from Fulton-Peoria.

Q. And on page 22 the same is true with respect to the rates from Victoria to Amboy, is it not?

A. No, sir. You mean the present rates or proposed rates? The proposed rate is .5 of 1 per cent higher to Amboy than the present rates to the interstate points in Wisconsin.

Q. .5 of 1 per cent higher?

A. Higher.

Q. As measured by the scale?

A. That is right.

Q. On page 23 of your Exhibit 85 you show certain comparisons with the rates from Fulton-Peoria to Amboy, Illinois, and the rates to Clinton, Iowa.

A. That is correct.

Q. Will you tell me if the rates to Clinton, Iowa, were prescribed in the Midland Electric case?

A. No, sir, they were not.

Q. They were not prescribed?

A. No, sir.

Q. Were the rates to Clinton, Iowa, found unreasonably high in that case?

A. I don't think so.

Q. Now, on page 24 you show comparisons of the rates from Fulton-Peoria to Dixon, Illinois, with rates to Wisconsin.

[fol. 2437] A. That is correct.

Q. Based upon the Midland scale?

A. That is correct.

Q. Can you tell me if the rates which the carriers charge from the Fulton-Peoria District to Dixon are in a higher or lower level than the present rates from Fulton-Peoria to the seven Wisconsin destinations which you show?

A. Higher level, 1.5 per cent higher than the level of Wisconsin, using the carriers' mileages.

Q. How do you get that?

A. Last column, Column L, line 21.

Q. Well, based upon your own mileages?

A. Well, I am using it on yours.

Q. I am asking you about your own mileage.

Mr. Vesey: Mr. Examiner, I object. This is all set forth in the exhibit. Nothing is gained by this examination, as to whether or not it is 1.5 that appears in the column or whether 2.3 ducks appears in there. It is all in the exhibit. We can read that.

Mr. Biaett: Will you answer the question?

Mr. Vesey: Just a minute. I have an objection to the question.

Exam. Trezise: The Examiner does not know what Mr. Biaett is driving at, and therefore is unable to rule on it. Go ahead with the question.

[fol. 2438] The Witness: It is .1 of 1 per cent lower using our mileage and 1.5 per cent higher using the carriers' mileage.

Exam. Trezise: Now, what is the question about that? Do you have a question about that?

Mr. Biaett: Well, the purpose of my examination, if the Examiner please, is that Mr. Christiansen has made some comparisons here——

Exam. Trezise: In asking him that question, what was the purpose?

Mr. Biaett: I am explaining that. He has made some comparisons here with Southern Illinois and Fulton-Peoria to Wisconsin, and that theory is one, of course, to which we do not subscribe, the manner in which he has done it. However, I wanted to point out that the rates which he shows on that exhibit show the same thing that the carriers are proving in this proceeding, that the rates from Fulton Peoria to destinations in Northern Illinois are on a lower level than the rates from Fulton-Peoria to destinations in Southern Wisconsin.

Exam. Trezise: Can't you put that in your brief? I don't want to carry this case too far. If you can avoid any questions by using an analysis of these exhibits in your brief, I think we will save time.

Mr. Biaett: That is all I have in that respect. I just want to point out a couple of points, Mr. Examiner. It would have been over a long time ago if Mr. Vesey had [fol. 2439] just borne with me a minute.

Exam. Trezise: That is all you have?

Mr. Biaett: No, I have another question.

By Mr. Biaett:

Q. Now, will you turn to your Exhibit 89, please.

A. Yes, sir.

Q. Now, on page 1 you show certain differentials, Western Kentucky over Southern Illinois?

A. Yes, sir.

Q. Can you tell me whether or not Benton is located in the Southern Illinois group?

A. It is.

Q. And is Mt. Vernon located in the Southern Illinois group?

A. No, sir.

Q. It is just north of the group, is it not?

A. That is right.

Q. Do you know if either Benton or Mt. Vernon or Mount Olive were involved in any of the proceedings in which the differential Western Kentucky over Southern Illinois was prescribed?

A. I don't think they were, and it doesn't make any difference, as far as this exhibit is concerned. This page of the exhibit merely shows as you approach the mines the differential at least does not decrease. It increases in every instance.

Q. I understand your theory, Mr. Christiansen. I just want to know if they are involved in the case and if you [fol. 2440] were attempting to show that those differentials had been prescribed by the Commission.

A. No, they were not, and if they were, they wouldn't have prescribed lower differentials to those points than to the points north.

Mr. Morgan: What case is counsel referring to?

Mr. Biaett: I was referring to Docket 16340, Docket 21838 and Docket 28629.

Exam. Trezise: We will let those answers stand, although I wouldn't say they are too complete. You have got two answers and then you have got two more answers.

By Mr. Biaett:

Q. Can you tell me what the differential is, Western Kentucky over Southern Illinois to Wisconsin?

A. 35 cents.

Q. And to Minnesota?

A. 35.

Q. And to North Dakota?

A. 35.

Q. And South Dakota?

A. 35 to the entire northwest territory.

Q. Now, referring to page 3 of your Exhibit 89, can you tell me if the differential 20 cents Rich Hill under Pittsburgh applies to Missouri River territory north of Kansas City?

A. It does, as I understand.

Q. How far north does that apply?

[fol. 2441] A. I think it is a large group.

Q. It applies to North Dakota, South Dakota, Minnesota, Nebraska, does it not?

A. The entire territory, yes.

Q. Now, on page 4 are there any points in this territory from Fulton County, or any suspended points, to which the distance from Fulton County is as low as that from Rich Hill to Kansas City or any of the other points which you show?

A. From Rich Hill?

Q. Yes.

A. No.

Mr. Biaett: That is all I have. Thank you, sir.

Exam. Trezise: If you have finished, we will take a short recess.

(Recess taken.)

Exam. Trezise: All right, gentlemen.

By Mr. Stadell:

Q. Mr. Christiansen, will you turn to page 4 of your exhibit No. 83, please.

A. Yes, sir.

Q. As I understand your testimony, it was that to this dark shaded portion of Southwestern Wisconsin lying west of Madison and Janesville, the differential Fulton-Peoria

under Southern Illinois became 79 cents on July 19, 1925, as the result of this so-called Hardie announcement?

A. Yes, sir.

Q. And the differential into that same portion of South- [fol. 2442] western Wisconsin, Southern Illinois over the Northern Illinois group, became $1.00?

A. That is right, except it included Beloit.

Q. Now, those same differentials were not established at that time between the Southern Illinois group, on the one hand, and the Northern Illinois and Fulton-Peoria groups, on the other, to the southeastern portion of Wisconsin lying east of Janesville and south of this shaded or dashed line which is shown on the map, page 4 of your exhibit 83?

A. No, sir.

Q. The differentials into that portion of Wisconsin at that time between those groups varied?

A. It did.

Q. And it does at the present time?

A. It does.

Q. Are the people that you represent satisfied with the present differentials between the Southern Illinois and other Illinois groups, on the one hand, and the Fulton-Peoria and Northern Illinois group, on the other, to that portion of Wisconsin?

A. No, sir.

Q. You think those also ought to be changed?

A. Yes, sir.

Q. And changed to what basis? The same basis as you are advocating to the southwestern portion of Wisconsin?

A. I haven't made an investigation there as to that par- [fol. 2443] ticular territory. It is going to have to fit in with the 40 cent differential that prevails at Milwaukee and the 40 cent differential at Milwaukee is made to correspond to the 40 cent differential at Chicago.

Q. And the 40 cent differential you refer to is between the Southern Illinois and Fulton-Peoria groups?

A. That is correct. In other words, the eastern part of Wisconsin, which is now not much of a market for Fulton County coal—in fact, can't sell practically any over in that Milwaukee territory—and as it moves from Milwaukee toward the mine today the Milwaukee differential is 40 cents, the differential at Waukesha, Fulton County under

Southern Illinois is 57 cents. As you get over to Janesville it is 79. It follows the normal trend, but in some way or other that differential adjustment will have to fit in with the 40 cent differential at Milwaukee, or the Milwaukee differential will have to change.

Q. But there is no way in this proceeding that you know of that the Interstate Commerce Commission could change the present differentials between the Fulton-Peoria and Northern Illinois groups, on the one hand, and the other Illinois groups, on the other, to that southeastern portion of Wisconsin?

A. No, sir, there is no complaint in this proceeding on that subject.

Q. Now, at Madison, Wisconsin, your present differen-
[fol. 2444] tial, Southern Illinois over Fulton-Peoria, is 61 cents, and Southern Illinois over Northern Illinois is $1.00. Are your people satisfied with those differentials or do you think they should also be changed?

A. They should be changed and there will be a complaint eventually.

Exam. Trezise: And there is no complaint in this case about it, and therefore, the Commission can't do anything about it. Now, are you going through some more of those over and over again?

Mr. Stadell: I want to find out, Mr. Examiner, if I can—Mr. Christiansen has testified at considerable length about the differentials to one point in Southern Wisconsin. Now, we have a great variety of differentials between these same groups to other points in the immediate territory in Southern Wisconsin, and I just wanted to find out if his people are satisfied with those differentials which are lower than to Beloit, which they are complaining about.

The Witness: We are not.

By Mr. Stadell:

Q. Now, I didn't get your position clearly on the point as to whether you thought the rates from the Fulton-Peoria district to the Northern Illinois points involved are short haul rates or whether there should be or is a definite differential relationship between the Fulton-Peoria rates, on the one hand, and the rates from the other groups in Illinois, Indiana, on the other?

[fol. 2445] A. I understand there is no fixed relationship today. Whether there should be or shouldn't be, I wouldn't say. It doesn't make any difference to us, just as long as the differential is 79 cents or better under Southern Illinois.

Q. 79 cents or better where?

A. At the Northern Illinois destinations.

Q. And you included that at all of the Northern Illinois destinations involved in this proceeding?

A. Yes, sir.

Q. In other words, you think there the differential should be uniform between the groups?

A. I didn't say uniform. I said it should be 79 cents or better.

Exam. Trezise: For a general difference in distance, or can you say just about what that is, from memory?

The Witness: Well, the distance varies from about 200 miles or 190 some miles to 230 miles in the territory as between Fulton County, on the one hand, and Southern Illinois, on the other, and the lesser the distance is for a much shorter haul, for instance, at Dixon, Illinois, as an illustration, and, of course, there the distance should receive more weight.

By Mr. Stadell:

Q. Your theory is, as I understand it, that differentials should be based upon the differences in distance between the groups involved, but that as the distance from those [fol. 2446] groups to a given destination increases and becomes a smaller percentage of the total distance, that the differentials should be lower than to the short haul points?

A. No, I don't think you have stated it right. Our theory is that as you approach the origin groups, come closer to them, in other words, the total distance diminishes as between two origin groups—not between the origin groups, but as the total distance diminishes as you move toward the origin groups, that the difference in distance, while it might be the same or it might be slightly less at one destination than another, or it might be slightly more at one destination than another, yet as you keep coming closer to the origin group it becomes more important. In other words, on a 300 mile haul, as an illustration, from Southern Illinois, with a 100 mile haul from Fulton County, the dis-

tance difference is 200 miles, that is two-thirds of the total distance. But on a 600 mile haul, that same 200 miles is only one-third of the distance.

Exam. Trezise: Are you talking about Illinois now?.

The Witness: No, I am talking about the general theory of making rates.

Exam. Trezise: Then you would include Indiana in that too?

The Witness: Oh, yes.

Mr. Stadell: Well, that is the same thing that I stated, except you stated it in the converse.

[fol. 2447] The Witness: Perhaps.

By Mr. Stadell:

Q. And on that theory, you say that if the 79 cent differential which you are advocating between Fulton-Peoria and Southern Illinois to Beloit is right, that the 85 cent differential between those groups to Minneapolis-St. Paul is wrong?

A. That is possible, yes, sir.

Q. Now, you would also say, would you not, that if it is proper to correct one of the differentials, such as you have suggested, Fulton-Peoria versus the other Illinois groups at Beloit, to restore them to the 1925 basis, that it would be equally proper to correct the differentials between, for example, the Northern Illinois groups, on the one hand, and the Southern Illinois group, on the other, at Janesville, which is now $1.30 and which in 1925 was made $1.00?

A. That Janesville rate, as I understand it, was prescribed as a reasonable maximum rate from Northern Illinois, and I don't see how you can change it.

Q. I am talking about your theory now of restoration of these differentials, irrespective of what rates were prescribed or anything else.

A. No. It is possible that on real short haul traffic that some of those rates might have been unreasonable, even with their $1.00 differential; in that case, they ought to be corrected, and they were corrected at Janesville, becaus[e] [fol. 2448] the Commission in that case prescribed the Janesville rate in the Northern Illinois District as a reasonable maximum rate. It just happened to equal $1.30 differential.

Q. You would know of no reason why the differential, Southern Illinois over Northern Illinois, should be $1.30 at Janesville and $1.00 at Beloit and $1.00 at Madison, Janesville being located directly intermediate between Beloit and Madison, would you?

A. No, sir.

Q. I believe you stated you were not present at this so-called conference which preceded the Hardie announcement in 1925?

A. That is right.

Q. Do you know who was present?

A. For our group?

Q. No, I mean for all of the parties to these proceedings.

A. No, I couldn't name all the people that were present.

Q. As I understand it, there were certain increased rates proposed and published by the railroads that were suspended prior to the time that conference was held, and that there was a complaint or two filed by some parties attacking some of the rates from Illinois mines to the territory involved?

A. I think that is right.

Q. And those tariffs containing those proposed increased rates were suspended by the Suspension Board of the Commission?

A. That is correct.

[fol. 2449] Q. And following that suspension this so-called conference was held between these undisclosed parties at Washington on April 10, 1925—the first page of your Exhibit 83?

A. Yes.

Q. And following that conference this announcement resulting in the changes in the then existing rates from the Illinois, Indiana groups and in the differentials between those groups was promulgated and the rates were changed from those which were in existence at that time?

A. That is correct.

Q. There was no public hearing before the Interstate Commerce Commission accorded any of the parties with respect to the rates involved or with respect to the changes which were made in the rates or differentials, was there?

A. I think not.

Q. Have you ever seen a transcript or any official report or record of what took place at that so-called conference?

A. No, sir.

Q. You do know, do you not, that many of the differentials which were in existence prior to July 19, 1925, between the Illinois groups, on the one hand, and the Indiana groups, on the other, to points in Northern Illinois and to points in Southern Wisconsin were changes as a result of the rates which the carriers ultimately published after this so-called Hardie announcement?

[fol. 2450] A. Yes, there were changes in many rates as a result of this announcement.

Q. And those changes resulted quite generally, did they not, in increasing the differentials theretofore existing between the Indiana groups, on the one hand, and the Illinois groups, on the other, to the Northern Illinois and Southern Wisconsin territory?

A. I didn't check out the Indiana and Illinois groups prior to July 19, 1925. I understand there were changes. I have seen some of those rates and comparisons, but I couldn't name a single point to where that change was made. There were changes, however.

Q. Now, the Illinois, Indiana, Western Kentucky coal mines comprise what is generally referred to as the Midwestern Coal Field, do they not?

A. That is correct, it could be called that.

Q. Somewhat the same as the mines in all of the eastern states are referred to as the Appalachian Coal Fields?

A. That is correct.

Q. Or the mines in Arkansas, Oklahoma, Kansas and Missouri are referred to as the Southwestern Coal Fields?

A. That is correct.

Q. Or the mines in Colorado, Wyoming and New Mexico are referred to as the Far Western Coal Fields?

A. Yes, sir.

[fol. 2451] Q. Now, in making rates you have stated that you had long experience in connection with the rates on coal. Isn't it true that the Commission in connection with the adjustment of rates from all of these other fields that I have referred to make the rates by selecting but one group as the base group and by making the rates from the farther distant groups by the addition of differentials over the base group?

A. There is generally one base group selected, and sometimes it is the nearby group or sometimes the far away group. I would say most of the times it is the nearby group.

Q. Wouldn't you say, based upon your experience, that if you have two fields and the nearby group is selected as the base group in one field, that it should be done from the other field, and if the farther distant group is selected as the base group that the same thing should be done from the other field?

A. I would think base groups ought to be comparable in distance.

Exam. Trezise: Do you know why, what reason you have differentials for at all? Why shouldn't there be a distance rate from every point?

The Witness: Well, differentials are made principally to give a farther away mine an opportunity to get into a market.

Exam. Trezise: For competitive reasons they have drawn the producing area closer together for the purpose of competition, is that your conception of it?

The Witness: That is correct.

[fol. 2452] Exam. Trezise: Go ahead.

By Mr. Stadell:

Q. Now, as I understand it, you are generally dissatisfied with the differentials or the rate adjustment that exists into Southern Wisconsin and Northern Illinois?

A. Beloit, Wisconsin, as far as this proceeding is concerned, Beloit, Wisconsin, and Northern Illinois.

Q. But I say, you are generally dissatisfied with the rate adjustment prevailing in the entire territory in Southern Wisconsin south of the cross-hatched line shown on the map, page 4 of your Exhibit 83?

A. Yes, I think there should be some ironing out of the hodge-podge differentials there and make it somewhere near uniform.

Q. And you have heard other witnesses in this proceeding express dissatisfaction with their rates and differentials to the Northern Illinois and Southern Wisconsin territory?

A. Yes, sir.

Q. Would you say that a part of that dissatisfaction results from the use of two so-called base groups from the Midwestern Field, one, the shortest or nearest distant group in Indiana, and the other, the longest distant group in Illinois?

A. Well, in so far as Fulton County is concerned, I would say that didn't have anything to do with our situation. It may have something to do with the general adjustment as between Illinois, on the one hand, and Indiana, on the other. I think it does.

[fol. 2453] Q. Well, can you conceive how a logical, reasonable adjustment of rates can be made on coal from the Midwestern Coal Field to Northern Illinois or Southern Wisconsin or all of Wisconsin, by the use of one base group for Indiana, using the nearest group to the destination territory, and by the use of one base group for Indiana, using the nearest group to the destination territory, and by the use of another group in Illinois, using the farther distant group in Illinois?

A. I can conceive such an adjustment could be properly worked out, but it would be more simple if they were both located either nearby or both located far away. It would be simpler to do it in that way. It could be done the other way, if you just go ahead and do it.

Q. Now, the Fulton-Peoria and Northern Illinois groups were the base groups, were they not, for the coal rate adjustment from Illinois, Indiana and Western Kentucky to Northern Illinois and the northwest from about 1887, the date of the Faithorn Award, until about 1920?

A. It was at one time the base group. I don't know exactly the dates.

Q. Then as the production of coal in the Fulton-Peoria and Northern Illinois District declined and the production of coal in and shipments of coal from the groups further south increased, the Commission, without changing the [fol. 2454] differentials, began to refer to Southern Illinois as the base group?

A. That is correct.

Q. Then later as new mines were put in operation in the Fulton-Peoria and Northern Illinois District, and the production of coal in that district and the shipment of coal from that district increased, the Commission in the Midland

Electric cases, with respect to the rates to all destinations in Iowa, reverted back to Fulton-Peoria as the base groups?

A. That is correct.

Q. And they prescribed a scale of rates from the Fulton-Peoria group and prescribed differentials from the other Illinois groups over the rates from the Fulton-Peoria group?

A. Yes, sir.

Q. And still later in the so-called South Dakota coal case they considered Fulton-Peoria as the base group?

A. Yes, sir.

Q. And then a little later they considered Fulton-Peoria the base group in the Fairbanks-Morse case for prescribing reasonable rates from Illinois, Indiana, West Kentucky to Janesville and Ft. Atkinson, Wisconsin?

A. Yes, sir.

Q. Now, the mines that are in operation at the present time or have been in operation for the past few years in the Fulton County, Northern Illinois district and in Knox County, are not the mines that were in operation in those [fols. 2455-2456] districts in 1925, are they?

A. No, they are not the same mines. There are mines in the Fulton County District, some of the mines that are in operation today were in operation in 1925.

Q. Well, outside of the mine of the United Electric Coal Company in the Fulton County District, can you name any mines that are in operation today that were in operation in 1925 at the time of this so-called Hardie announcement?

A. The Sherer Coal Company I think was in operation.

Q. Where is that located?

A. At Canton.

Q. Approximately what is its annual production?

A. About 130 or 140,000 tons a year.

Q. Is that the only one you can name?

A. There are several mines down there that were in existence at that time that are still running today, that I think have different names.

[fol. 2457] Exam. Trezise: We will let him answer that, if he can. I don't know how far we are going or where we are going.

The Witness: There are some of the mines that were in existence in 1925 that are still in existence. There are

others that have developed and there are some that are closed.

By Mr. Stadell:

Q. Well, the only one that you could name that is in existence at the present time, that was in existence and in operation in 1925, was the one that you named?

Mr. Vesey: I object to that, unless you put all that in, the whole history. Let us not have just part of it.

Exam. Trezise: You can answer the question.

The Witness: United Electric Coal Company was in existence in 1925. Scherer Bros., I understand, was in existence in 1925. The Illinois Collieries Company was in existence in 1925.

By Mr. Stadell:

Q. All of those mines you have named, except the mine of United Electric Coal Company, were shaft mines operating in a very thin seam of coal and with a very small annual production?

A. Yes, sir.

Q. And the mines that you have today in Fulton County, Knox County, Atkinson, and in Will County, the mines in those——

Mr. Cardy: Are you talking about Fulton County?

Mr. Stadell: If you have an objection, will you state it, and not break in on my questions?

[fol. 2458] Mr. Cardy: I thought you made a misstatement.

Mr. Stadell: The witness will tell me if I did. He can answer the question. We don't need your help. Miss Reporter, will you read my question as far as I got?

(Question read.)

Mr. Stadell: Strike that question. I will ask you this question directly.

By Mr. Stadell:

Q. The mine of the Midland Electric Coal Company at Atkinson was not in operation in 1925, was it?

A. No.

Q. It began operation about 1928 or 1929, didn't it?

A. Yes, sir.

Q. And it is then producing to the limit of its capacity with its equipment since that time every year, isn't it?

A. Yes, sir.

Q. The mine of the Little John Coal Company at Victoria, Illinois, in Knox County, began operation about 1936, didn't it?

A. Yes, sir.

Q. And it also has been producing to the limit of its capacity since it has been in operation?

A. No, sir.

Mr. Vesey: I object, unless the witness knows all these answers.

Mr. Stadell: You qualified him to answer the questions.

Mr. Vesey: As to knowing whether they are producing to [fols. 2459-2460] their full capacity, I don't think anybody can answer that.

Mr. Stadell: He remembers the testimony of the witnesses from those companies.

The Witness: No, sir.

Exam. Trezise: He has given the answer, "No, sir."

By Mr. Stadell:

Q. Could you tell us what the annual productive capacity of that mine was in 1941 and what was actually produced?

A. I don't have it here.

[fol. 2461] The Witness: I haven't the date the mines opened. They did not operate to capacity through any of the period up until 1942, we will say, or 1943.

By Mr. Stadell:

Q. And when you say they did not operate to capacity, you mean that considering 260 days, that is five days per week, 52 weeks per year, that they did not produce all of the coal that they could have produced?

A. They didn't operate 260 days, so naturally they couldn't produce all the coal they would have produced.

Q. You say they didn't operate?

A. No, sir. I think you will find if you go back and check [fol. 2462] the record, you will find many years when Truax

Traer Coal Company didn't operate 175 days a year. If you are talking about 1941, since the war started, you have got another picture.

Q. When did the mine of the Central States Collieries begin operating in the Fulton County District?

A. 1936, the first mine.

Q. And when did the mine of the Northern Illinois Coal Corporation begin operation at Bloomington, Illinois, in Will County?

A. 1929, I believe—1928.

Mr. Cardy: Now, are you on the complaint case or the 13th Section case or what?

Mr. Stadell: I understand his testimony is offered in the consolidated proceedings here.

Mr. Cardy: I understood you were dealing with the rates to Beloit.

Mr. Stadell: I am dealing with all of them.

By Mr. Stadell:

Q. Have the two associations that you represent any member company mines in Northern Illinois, other than the Northern Illinois Coal Corporation?

A. Yes, sir.

Q. In the Northern Illinois district?

A. Yes, sir.

Q. Would you give us the name of those?

A. Osage Coal Company, Wilmington Coal Mining Cor-
[fol. 2463] poration, Morris Coal Mining Company.

Q. Now, would you describe the mines of the Northern Illinois Coal Corporation—that is, the mine of the Northern Illinois Coal Corporation?

Mr. Vesey: I object to that. What are we going to do, have a description of a dipper or something like that in here? What has the description of a mine got to do with freight rates, whether it is big, little, small or indifferent?

Mr. Biaett: It is not a question of a reasonable freight rate. It is a question of the reasonable relationship in a freight rate.

Mr. Stadell: That is right.

Mr. Vesey: And I suppose the size of a mine has a bearing on the reasonable relationship?

Mr. Cardy: I object to the word "description".

By Mr. Stadell:

Q. I will ask you this, then, Mr. Christiansen, isn't it a fact that the mines of the United Electric Coal Company, Truax Traer Coal Company, Central States Collieries Company, Ayrshire-Patoka Company, and Northern Illinois Coal Corporation, all produce from 400,000 to a million two hundred thousand tons of coal a year?

A. It runs in the neighborhood of those figures.

Mr. Kaylor: I wonder if this isn't a pretty good place to adjourn.

Mr. Stadell: Yes.

[fol. 2464] Mr. Morgan: May I ask what the next program is going to be?

Exam. Trezise: As I have it here, Mr. Christiansen is being cross examined, and Mr. Scott is to be cross examined, or are you through?

Mr. Scott: I am through now, I think.

Mr. Morgan: I have one question of Mr. Scott.

Exam. Trezise: I think Mr. Scott will be able to answer your question. Then, Mr. Cardy, when are you coming on, Thursday?

Mr. Cardy: Well, I think I can put Mr. May on tomorrow.

Exam. Trezise: Off the record.

(Discussion outside the record.)

Exam. Trezise: Mr. Morgan, if you want to ask Mr. Scott those questions now, you may do so. All right, gentlemen, Mr. Morgan is going to ask a few questions before we adjourn, and we will adjourn then until 2:30.

(Witness excused.)

HAROLD V. SCOTT, resumed:

Cross examination (Continued).

By Mr. Morgan:

Q. At page 5 of your written statement of evidence, Mr. Scott, you stated that there is a substantial investment in coal mining property in Indiana, giving six million for Brazil-Clinton, twelve million for Linton-Sullivan, and the [fol. 2465] Ayrshire group thirteen million, and the Boon-

ville group three million, or a total of thirty-five million dollars.

A. That is approximately right. Boonville was three million five hundred thousand; a total of thirty-five million dollars.

Q. Well, it appears that is approximately right. What is the definition which you assign to an investment, in that instance?

A. Money which the operators have put into the coal mines they are operating.

Q. Did you verify that?

A. These records were given to me by the members of my association, whose figures I have no reason to doubt.

Q. Then you did not verify the figures in order to account for these figure-?

Mr. Wilkinson: Just answer yes or no.

The Witness: I didn't do it personally, no.

By Mr. Morgan:

Q. That is all I want. You don't know, do you, whether a lot of the figures might represent a mine, for example, which might at one time say be appraised at $1,000 and $100,000 worth of stock issued against it, do you?

Mr. Wilkinson: I object to that question. The witness said where he got his figures and how he got them, and that is all there is to it. You can ask a lot of hypothetical questions that he doesn't know and it adds nothing or takes nothing from his evidence.

Exam. Trezise: I think he can answer the question, if [fol. 2466] he understands it.

Mr. Morgan: I asked him whether he knew or didn't know.

The Witness: I haven't answered that last question yet.

Mr. Morgan: No. I was just stating what the question was.

The Witness: I don't know that, no, sir.

By Mr. Morgan:

Q. So your total of $35,000,000 is purely a figure which somebody else gave you, that is the substance of it, is it not?

A. I would like to amplify that, by stating, not what somebody else gave me, but what the members of my organization, for whom I work gave me, and I have no reason to doubt those figures.

Q. But you have no reason to know whether they are investments without having checked the actual investment accounts supporting those figures?

A. No, sir.

Mr. Wilkinson: I object to that.

Mr. Morgan: He has answered it.

Exam. Trezise: All right, we will let it stand the way it is. You don't know whether it is $35,000,000, so far as you are concerned, or not? You didn't check any figures, you didn't check the original cost of this or the amount of money put in it, the prudent investment, or anything of the kind; these are the figures that somebody gave you and that is about all you know about it, is that correct?

[fols. 2467-2468] The Witness: That is correct.

[fol. 2469] Afternoon Session.

The hearing was resumed pursuant to recess.

2:30 o'clock P. M.

Exam. Trezise: Gentlemen, when you are ready we will begin. Mr. Stadell.

A. J. Christiansen, resumed:

Cross examination (continued).

By Mr. Stadell:

Q. Some reference has been made in the evidence that has been presented to the Flamingo mine in the Fulton County district. Is that the mine operated by the Fairview Collieries Corporation?

A. Yes, sir.

Q. Now, taking the mine of the Midland Electric Coal Corporation at Atkinson, and taking 1941 as illustrative, that mine produced about 500,000 tons of coal, did it not?

A. Approximately.

Q. And approximately 85,000 tons of that was sold to the railroads serving the mine?

A. In 1941?

Q. Yes.

A. Yes, sir.

Q. And hasn't the practice of that mine been, or the company that operates it, to crush its coal to screenings sizes and sell the quantity which they have over, left over, after selling a certain amount to the railroad and using some of [fols. 2470-2475] it at the mine, to four or five large accounts, such as the Electric Utility Company at Cedar Rapids, Iowa, and the Corn Syrup Products Company at Clinton, Iowa?

A. No, sir.

[fol. 2476] Q. Well, could you tell us, for the year 1941, to what principal destinations the coal from the Atkinson group was shipped?

A. Yes.

Q. What were those destinations?

A. Principally the eastern part of the state of Iowa and the western part of the state of Illinois.

Q. You included in that Cedar Rapids, in the eastern part of Iowa?

A. Yes, sir. Some over towards the LaSalle district.

Q. Now, you participated in the Midland Electric cases, did you not?

A. Yes, sir.

Q. And you represented the mine at Atkinson and certain mines in the Fulton County district?

A. Yes, sir. The Midland Electric Coal Corporation was the complainant and I represented that company.

[fol. 2477] Q. Prior to the time that that was filed, the rates from Alpha and Atkinson to destinations in eastern Iowa were lower than and were not differentially related to the rates from the Fulton County and other Illinois groups, isn't that true?

A. The Atkinson rates to the Tri-City territory were originally fixed about the time the mine opened in 1929, and they were fixed lower than the Fulton County rates.

Q. Well, I am talking about the territory in eastern Iowa west of the Mississippi River.

A. I believe Atkinson had rates that were somewhat lower than Fulton County to some of the destinations. Alpha did not.

Q. And in its decision in the Midland Electric case, the Commission did not prescribe the same rates from Alpha and Atkinson as it did from Fulton-Peoria, except to destinations more than 130 miles west of the Mississippi River?

A. More than 100 miles west.

Q. More than 100 miles west?

A. That was the breaking point.

Q. And to the points within 100 miles west of the Mississippi River, the Commission prescribed rates from Atkinson and Alpha that were based on the Midland scale and which were not differentially related to the Fulton-Peoria or other Illinois rates?

A. They were not. They were different than the Fulton-Peoria and other Illinois rates. They were lower.

[fol. 2478] Q. Well, where was the——

A. They varied at each destination.

Q. At what distance west of the Mississippi River in Iowa was it that the Commission prescribed rates from Alpha and Atkinson on the one hand and from Fulton-Peoria on the other, that graded into each other?

A. They run slightly over a hundred miles west of the Mississippi River.

Q. So that to destinations in eastern Iowa within 100 miles west of the Mississippi River, Alpha and Atkinson are not included within the Fulton-Peoria group?

A. No, they are lower.

Q. But to destinations more than a hundred miles west of the Mississippi River, Alpha and Atkinson are in the Fulton-Peoria group?

A. That is right.

Q. And take the same rates?

A. That is correct.

Q. Now, I asked you before if you thought that the Commission would establish a logical or proper rate adjustment on coal from the various origin groups, Illinois, Indiana and Western Kentucky to Northern Illinois, or to Southern Wisconsin, by using, as some of the parties advocate, two base groups, one the nearest group in Indiana and, two, the farthest distant group, namely, the Southern Illinois

group in Illinois, and you said it would be possible to do so. [fol. 2479] Would it be better, in your opinion, if they used but one base group to establish and readjust such a rate adjustment?

A. Well, it would be simpler to use one base group or to use a base group in each district, both of them located the nearest.

By Exam. Trezise:

Q. Why would it be simpler?

A. Well, you would start out then with a level of rates from each of the base groups or from the base groups and build over that level of rates.

Q. Oh, you think it is done differently from that now?

A. Well, the result is perhaps a little different.

Q. Oh, the results, you get different rates from the groups, is that the idea? What difference does it make? That is what I would like to know. Pardon me for asking that.

A. Well, if you are measuring levels of rates from the nearby group in one territory and figure out what is a reasonable level of rates, based on the shorter mileage, then you take another territory and take the farthest away group and figure out what might be a reasonable rate from that particular group, you can't fit the two together. I mean you are comparing unlike with unlike.

Q. Oh, then you come to the conclusion, by inference, anyhow, that if you call one a base group and another one a differential group, that the charge for transportation, even if the distances are the same from the respective [fol. 2480] groups, the charges for transportation would be different?

A. They shouldn't be.

Q. What is that?

A. They shouldn't be but they are in some instances.

Q. All right. Then what you do say is by calling one group a base group and the other one a like distance a differential group, you get a disparity that would not exist between the rates if you called each of them of like distance the base group.

A. I think that is true. You shouldn't but you do. You shouldn't get a difference but you do.

By Mr. Sadell:

Q. So that your judgment is that if the Commission, assuming that they have a proper record, is to bring any order out of what you referred to as the present hodge-podge adjustment of rates from the Midwestern field to Northern Illinois or Southern Wisconsin, would logically have to start with the use of one group as the base group and the use of differentials from the other groups over whatever the differentials may be over that base group—as they did in the Midland Electric case?

A. I think that would simplify it.

By Exam. Trezise:

Q. You say they did in the Midland case. Do you realize what that would mean, if you undertook to do substantially what they did in the Midland case? Do you know that for differences of distance of 150 to 190 miles, the [fol. 2481] differential of 50 to 55 cents was prescribed in the Midland case; whereas you have from Indiana, the difference in distance to Rockford, for example, the Boonville group over the Brazil-Clinton, as I figure it, anyhow, is 162 miles. One exhibit here, Exhibit No. 52, shows that there is a difference of 15 cents; not 50 or 55 but 15 cents.

A. I don't know where, what particular distances you are referring to as 150 to 190 miles——

Q. Going to Rockford.

A. For a 50 cent differential. I would have to ask what differentials you had in mind. Is that between Springfield and Northern Illinois or is it Southern Illinois and Northern Illinois or what?

Q. Well, I hope you were listening. I said Boonville over Brazil-Clinton.

A. I am talking about the ones you are talking about in the Midland case.

Q. Oh.

A. From 150 to 190 miles for 50 to 55 cents; what particular territory you are referring to there; surely not over Fulton County.

Q. No, not over Fulton County, but my question, as I gave it there, had to do with Revised Appendix C in the Midland case, the third report, which is 232 ICC 5; and

take my word for it, glance over all the various groups and you will find that 50 and 55 cent differentials or differences [fol. 2482] as shown in that appendix will generally apply for differences of 150, I said, to about 190 miles. You will find those differentials prescribed in there.

A. That is, Fulton-Peoria under Boonville. There are some differentials here from 50 to 55 cents.

Q. All right. I am only pointing out that it is a differential.

A. That is right.

Q. And my statement is substantially correct, anyhow; it may not be to the very great detail, but that is true; and now when you come over here to the Indiana group, we find a difference in distance, Boonville over the Brazil-Clinton, going to Rockford, for example, a difference in distance of 161 miles, and the difference in rates, as I figure it, is 15 cents. How are we going to take care of a situation of that kind? Wouldn't we have to have some sort of a metamorphosis, an evolution or a revolution in all of these Indiana rates to bring about the same sort of a relationship?

A. The rate that I find here as proposed from Boonville to Rockford is $2.27, and the rate that I find proposed from Brazil-Clinton is $1.95, so there is 32 cents, at least, in that differential instead of 15 that you referred to.

Mr. Scott: Is that true, Mr. Christiansen?

By Exam. Trezise:

Q. You mean if you pick out proposed rates rather than accepting the Examiner's statement?

[fol. 2483] A. I don't——

Q. Yes, you can find just what you found, but I asked you if you can find what I found?

A. No, I can't find what you found.

Exam. Trezise: Off the record.

(Discussion outside the record.)

Exam. Trezise: Back on the record.

The Witness: Yes, there is a 15 cent differential there as between the present rate.

Exam. Trezise: And the difference in distance is 162 miles?

A. That is right.

Q. And over here, when you get in not only the Midland case but when you begin to figure the difference between the rates or differentials from Illinois going to Northern Illinois, you will find likewise the same magnitude in these differentials as compared with Indiana?

A. They are inconsistent.

Q. And when we take the Midland case and we find for 70, 80 or 90 miles—and please take my word for that, as hypothetical, anyhow—we have a differential prescribed of 20 cents.

A. I believe there are some of those.

Q. In the appendix to the Midland case, the third report, the one that I referred to, Appendix C, I think that you will find 20 cents for those distances. When you come over [fol. 2484] to the Indiana group you will find for a difference of distance of 60 miles a difference of 3 cents.

A. I believe that is correct. You will find those inconsistencies.

Q. And when you get to 75 miles over here in Indiana, you will find a differential not of 20 cents, as in the Midland case, but a differential of 7 cents?

A. I believe that is correct, too.

Q. And I was just trying to find out what you meant when you said that. The question seemed to have been a logical adjustment. I think you said a logical adjustment.

Mr. Stadell: Logical and reasonable. More proper.

Exam Trezise: Proper.

Mr. Stadell: Lawful.

By Exam. Trezise:

Q. Now, Mr. Christiansen, how would you go about to make a logical or proper or reasonable relationship of rates when you find such a chaotic condition as that?

A. I would say it was a most difficult task.

Q. Oh, it is a difficult task. I see. That is your answer?

A. Probably——

By Mr. Kaylor:

Q. You don't advocate a mileage scale, do you?

A. No, sir.

Exam. Trezise: Pardon me, Mr. Stadell. Go ahead with your examination.

Mr. Stadell: That is all right.

[fol. 2485] Exam. Trezise: I just wanted to know what he meant when he answered you so readily, and now he answers me, it is a difficult thing to do.

The Witness: I think myself, Mr. Examiner, that it would probably be easier if you had just one base group to start from or if you had the nearest group in each of the two fields as a base group to start from and build over that, that it might be an easier problem. I don't know; maybe it isn't.

Mr. Vesey: Could I ask one question there?

Mr. Stadell: Go ahead.

By Mr. Vesey:

Q. Would the procedure of simplification, Mr. Christiansen, be facilitated by establishing first proper differentials between the Illinois groups?

A. It would.

By Exam. Trezise:

Q. Then what would you do? Would you follow along and use the same sort of principles from Indiana as was followed in the Midland case?

A. I think that Indiana can be fitted into Illinois, once Illinois is properly lined up.

By Mr. Stadell:

Q. Well, do we understand from all the testimony that you have presented here that your complaint with respect to the relationship Fulton County versus the other groups is directed not only to the relationship between the rates from the Fulton County group on the one hand and the other Illinois groups on the other, but also to the relation-

[fol. 2486] ship between the rates from Fulton County, Fulton-Peoria on the one hand and Indiana on the other?

A. It is directed against all the origin groups to the south.

Mr. Biaett: Just a minute. Are you referring to his complaint case?

Mr. Stadell: I am referring to his testimony in this case, where he is asking for changes in the relationship, as I understand it, Mr. Biaett.

Mr. Biaett: To Northern Illinois?

Mr. Stadell: Yes, that is right.

By Mr. Stadell:

Q. Do you know of any reason why the differentials between the Fulton-Peoria group on the one hand and the other Illinois groups on the other, or between the Indiana groups themselves to this territory, should be made on a different basis or on a different principle?

A. No. Our proposal is that inasmuch as Southern Illinois is the base group as far as Illinois is concerned, we would be properly lined up with Southern Illinois. Now, if the Indiana groups are out of line with the Illinois groups, or with Southern Illinois, inasmuch as Brazil-Clinton in Indiana is the base group in Indiana and the Southern Illinois group is the base group in Illinois at the present time, that if they are properly lined up with Southern Illinois and we are properly lined up with Southern Illinois, we will automatically be properly lined up with Indiana.

[fol. 2487] By Exam. Trezise:

Q. Well, with respect to that, now, there would not need to be very many changes made in the rates to bring that about, or would you put it in those terms? Do you think there would or wouldn't?

A. It wouldn't take many. As far as Fulton County is concerned, all that is necessary is to make the Fulton County differential to this Northern Illinois territory 79 cents or greater under Southern Illinois, and we are lined up automatically with Brazil-Clinton.

Q. That is your panacea of all ills?

A. As far as we are concerned it is.

By Mr. Stadell:

Q. Do you know of any conditions that would justify a greater differential Southern Illinois or Belleville over the Fulton-Peoria group for a difference in distance, we will say, of 200 miles than Princeton, Indiana group over Fulton-Peoria, for a difference in distance of 225 miles?

A. I know of none. There might be some. I know of none.

Q. But you have heard of none in this proceeding so far?

A. I haven't heard of any.

Q. And would your answer be the same if I asked you with respect to the Boonville, Indiana group versus Fulton-Peoria on the one hand and the Belleville versus Fulton-Peoria group on the other?

A. I know of none.

Q. Do you think the differentials between the various [fol. 2488] Illinois-Indiana groups on the one hand and Fulton-Peoria on the other should be the same to Rockford and Freeport as they are to Beloit?

A. At least the same or greater.

Q. And should they be the same to Madison as to Rockford and Freeport?

A. Madison might well fit into the rate adjustment, just to the north of it, which has a 70 cent differential. I haven't studied Madison but I will say this, that there is going to be a complaint to Madison.

Q. Providing you win your case here?

A. Well, there will be one anyhow.

Exam. Trezise: Off the record.

(Discussion outside the record.)

Exam. Trezise: Proceed, Mr. Stadell.

By Mr. Stadell:

Q. On your Exhibit No. 87, Mr. Christiansen, you show the average mileages from the Fulton County group to the twelve representative Northern Illinois points, first including the mileage to Belvidere and then excluding the mileage to Belvidere. Why did you exclude Belvidere?

A. The carriers, the North Western Railroad, abandoned a piece of track, I believe it is near Sycamore, which had

the effect of increasing the mileage from the Fulton-Peoria district and from the Illinois districts that move via that North Western route 50 miles exactly from each origin group, each origin point, and we felt that Belvidere should [fol. 2489] be eliminated as one of the points in ascertaining an average mileage for these twelve or thirteen representative destination points, because it was the carriers' own idea to abandon this piece of track, and we don't think that an abandonment should justify an increase in the level of rates. It was for their convenience they abandoned this piece of track.

Q. Coal moving to these points from the Indiana mines did not move over that portion of the track that was abandoned?

A. No, sir.

Q. Before?

A. No, sir.

Q. And therefore the mileages from Indiana to these representative Northern Illinois points would not be increased by the abandonment of that line as were the mileages from Illinois mines?

A. That is correct.

Q. I notice you have on this Exhibit No. 87 the average mileage from the Fulton-Peoria group to the twelve representative points and the average rates. Can you tell us how you arrived at the average mileages and average rates shown on there from Fulton-Peoria to those twelve points?

A. This is the weighted average. We took each destination, and if there was rates from twelve origin points, as shown on line No. 1 to Amboy, we took the total mileage: [fol. 2490] we also took the total rate. We did it for each of the other ones, added the group together and divided it by the total number of points in the group, both the rate and the mileage.

By Exam. Trezise:

Q. And that has nothing to do with the tonnage?

A. No, sir.

By Mr. Stadell:

Q. What you meant by "weighted" is that you took the rate from every origin in the Fulton County group to

each of these destinations? You took the mileage via the route via which that rate applies and you added those up and divided by the total number of origin points?

A. That is right.

Q. Or for the total number of rates?

A. Or routes.

Q. And what you meant in these average rates and average mileages by "weighted" was that they were weighted by or gave consideration to the number of origin points, the total number of rates and the total number of mileages?

A. Yes, sir, using a rate for every route, even though it was the same rate.

Q. Now, have you ascertained how the average rates from Illinois, from the Illinois and Indiana mines to the Northern Illinois points shown in Mr. Scott's Exhibit No. 73 and certain other of his exhibits were arrived at?

A. I checked 73.

[fol. 2491] Q. Were the average rates shown in that exhibit from Illinois and Indiana to the Northern Illinois territory involved, arrived at in the same way or by the same method that you used in arriving at the average rates shown in your Exhibit No. 87?

A. They were not.

Q. Were they arrived at, the average rates shown on Exhibit No. 73, merely by taking the rate from each group and the average mileage where there weren't different rates and arriving at a simple average?

A. Their rates on the exhibit were secured by what might be determined a simple average. They went just one step further than a simple average. For instance, if Southern Illinois had two rates, they used two rates instead of one rate for 75 origin points or routes. To that extent they have not even a simple average.

As an illustration, to the twelve destinations they have thirteen rates from Southern Illinois, thirteen rates for each of the origin points; but on the mileage, they have 882 mileages.

Q. And had they computed the average rates from Southern Illinois in Exhibit 73 as you have from Fulton County in Exhibit 87, they would have had 75 origins and 75 rates to each of the twelve destinations, would they not?

A. That is correct, and that is the only way that you can make a comparison when you are comparing two different factors.

[fol. 2492] Q. What in your opinion is the value of the average rate comparisons contained in Witness Scott's Exhibit 73 and the other exhibits presented by him, in which such average rates are shown?

A. Well, I didn't check the other exhibits, but as far as 73 is concerned, it shows nothing, because it isn't any kind of a calculation that any weight could be given whatever.

Q. Now, we heard considerable testimony in these proceedings about the tremendous sacredness of certain differentials or certain differences in rates between certain groups merely because somebody said they had been in effect for ten, fifteen years. Didn't the Commission in the Midland case change a considerable number of the differentials previously existing between the Illinois groups where they found that they were wrong?

A. They did.

By Exam. Trezise:

Q. On what theory do you think they changed them?

A. I don't know.

Q. Could it possibly have been any difference in mileage?

A. No, sir, it probably wasn't.

Q. Did they fix any differential that made the rates higher from the farthest distant group to the nearer groups?

A. No, sir.

By Mr. Stadell:

Q. Do you know of any case where the Commission has [fol. 2493] ever adopted the reverse theory of making differentials by giving the group with the longest haul a differential under the group with a shorter haul?

A. I don't know of any.

Q. Now, you referred to the going rates as being the rates that would move the traffic from any particular mine or origin point in a given group. That wouldn't be universally true, would it? What I have in mind is where you have a rate of, say, 90 cents from an origin point in the Northern Illinois group like Minonk or LaSalle and a

rate of a dollar from the large mine of the Illinois Coal Corporation.

A. It would be true if there was any coal produced at these other points.

Q. Well, you don't mean to say, do you, that the Northern Illinois Coal Corporation, despite the 10 cent difference in rate, wouldn't be actively soliciting business at the particular destination and trying to ship it in there?

A. They would be trying——

Mr. Cardy: I object to that.

Mr. Stadell: I beg your pardon?

Mr. Cardy: I object to that. Just a minute. I don't see any——

Mr. Stadell: On what grounds?

Mr. Cardy: I don't see how that can be material, whether we solicit coal on the basis of 10 or 15 cent differential. [fol. 2494] There may be many other reasons why we do or do not solicit business.

Exam. Trezise: I think if he knows the answer to that—do you know the answer, Mr. Christiansen?

The Witness: I think they would be trying to sell.

Exam. Trezise: I beg your pardon.

The Witness: I think they would be trying to sell.

By Mr. Stadell:

Q. And you know of movements, don't you, where they would sell and ship the coal from their mine to a given destination as against the rate from another origin having a slightly lower rate?

A. No, I don't know; in Northern Illinois.

By Mr. Kaylor:

Q. Do you know whether the Minonk mine is operating?

A. There is a mine there that is 99 per cent, I would say, truck.

Q. Do you know whether the LaSalle mine is operating?

A. I don't believe they are right now.

Mr. Kaylor: I see.

By Mr. Stadell:

Q. Did you hear the testimony of the railroad witnesses in these proceedings that it was their view that if they increased Illinois rates, as is proposed, that there would be no loss of tonnage from the Illinois mines to truck?

A. Yes, sir.

[fol. 2495] Q. What if anything have you to say about that?

A. Well, to the southern part of this territory, I think after the war there is going to be considerable trucking.

Q. Well, has there been trucking of coal from these mines up in Northern Illinois—from the northern portion of Illinois to the territory involved, in the past?

A. Some, yes. I think it is going to increase substantially.

By Mr. Cardy:

Q. What is that, Mr. Christiansen?

A. I think it is going to increase substantially.

By Mr. Biaett:

Q. Those are mines in Northern Illinois you are talking about?

A. Northern Illinois and Atkinson. Atkinson is located quite close to Dixon by road.

Q. Those are short-haul movements?

A. Yes.

By Mr. Kaylor:

Q. By "short haul" do you mean up to 50 miles?

A. From Atkinson and Sheffield—there is a new mine at Sheffield, truck mine—to this southern part of the so-called affected territory, that is Dixon and Amboy, is, I would say, within a 50-mile haul by road, although the railroad mileage is 125 or better.

By Mr. Vesey:

Q. Mr. Christiansen, along that line, didn't you find during your investigation preliminary to your testifying in General Docket 15 before the Coal Division, that the normal area over which truck coal moves is ranging up to 79 [fol. 2496] miles from the mine?

A. The big movement is 70 miles but it is increasing each year.

By Exam. Trezise:

Q. What is increasing?

A. The range in which it can move. For instance, ten years ago they figured that you couldn't move it much more than 25 miles, and improvements in truck, improvements in roads adds another 15 or 20 miles. Better mileage on gasoline, trucks, heavier loads, adds another 15 or 20 miles, and now they are up, I would say, the biggest, the greater part of the movement is within 70 or 75 miles.

After the war we are going into lighter-weight equipment; some of the developments are going in where you are going to haul coal 120, 125 miles. There is a substantial movement of coal today from the Fulton-Peoria district to the Tri-Cities, which is a hundred miles.

By Mr. Vesey:

Q. You spent, did you not, a number of months at my insistence in making a study of truck movements within the state of Illinois during the early part of 1939; the latter part of 1939 and the early part of 1940, didn't you?

A. We made quite an investigation, yes, sir.

Q. And you covered all the trucking areas in the state in that investigation?

A. Principally in the Northern Illinois territory, or Fulton-Peoria, Atkinson, Northern Illinois.

By Mr. Hunter:

Q. Was that trucking performed by the coal producer or [fol. 2497] by a common carrier, contract carrier trucks, do you know?

A. It is performed in most instances by what might be termed contract carriers, although there is a question as to whether they are contract carriers. They buy the coal and sell it. They may be dealers.

By Mr. Bather:

Q. Mr. Christiansen, wasn't there a heavy movement of coal from Minonk into Rockford and Freeport from that mine there?

A. I don't know about the Minonk mine. There is a truck mine at Minonk that sells most of their output to trucks.

By Mr. Kaylor:

Q. Well, did you answer Mr. Vesey? He asked you if you made an extensive investigation and you said you had, but outside of that you didn't tell us what it consisted of with reference to miles hauled by truck and the amount of movement, or such as that.

A. Well, I can't give you any figures now; I don't have them right handy; but I did testify that the larger—or most of the movement by truck was within 70 or 75 mile radius today, or was up to the time the war began. When the war began and the people that did the trucking could get better jobs, they quit hauling by truck, and I would say today it isn't as substantial as it was three years ago; but when the war is over, with the improved equipment that we can expect, perhaps Diesel motors, light aluminum bodies on the truck, and instead of having a 15,000 pound [fol. 2498] truck we will have a 5,000 pound truck, which means 10,000 pounds more pay load, that it will extend out and there is going to be a big increase in the trucking movement of coal.

Q. Did you find in this investigation whether or not any regulatory body had any jurisdiction of the rates of these truck haulers?

A. None had, in Illinois.

Mr. Kaylor: That is what I am speaking of, Illinois.

By Exam. Trezise:

Q. Well, would you say that if these rates were increased from Fulton-Peoria, Alpha and Atkinson to this Northern Illinois territory, that there would be increased trucking or would be a tendency to increase the trucking of coal?

A. There would be a tendency to increase because every time you add 15 cents on to a rate you just widen the radius in which the trucks can operate. If they can get 15 cents more they can go out another five or ten miles and can take in that many more communities every time you widen the circle.

Q. You mean that it would increase to destinations that are 70 miles away?

A. Yes, it would. It wouldn't increase it—it would increase to those destinations, the amount of trucking. It would increase the radius to, say, 75 or 80 miles and take in some other destinations.

[fol. 2499] Q. You mean, then, that there might be an increased trucking, under normal conditions, anyhow, to destinations beyond this 70 miles as indicated, possibly, by your exhibits here, that the distances are such that the trucking might be increased?

A. Yes. The trucking might be increased to the individual points that are already within, we will say, the 70-mile distance by road and the area or the radius of the distance would also be increased.

Exam. Trezise: Go ahead.

By Mr. Stadell:

Q. On page 8 of your prepared statement, you refer to the fact or to your contention, "The rates from the Northern Illinois group to the Northern Illinois points involved are short-haul rates." What do you mean by "short-haul rates"?

A. Well, that is a hard description to make. It is generally considered in Illinois that short-haul rates are up to about 130 miles. That seems to have been the cutting-off place. However, there are some of the districts where it doesn't extend out that far.

Now, the Springfield district, you have a fixed differential when you get north of Bloomington, as an illustration, and that is not 130 miles from the Springfield district; so short-haul rates can be anything. However, from the Northern Illinois district to this territory, other than Beloit, the rate seems to be on a point-to-point basis. In other words, [fol. 2500] LaSalle has got one rate, Minonk has got another, Wilmington has got another, Ottawa has another, and there seems to be pretty much a hodge-podge of point-to-point rates.

Now, that, I think, would be considered really short haul. When you get into Beloit, Wisconsin, as an illustration, the Northern Illinois group has the same rate to Beloit. The Northern Illinois rate is $1.40.

By Mr. Cardy:

Q. In other words——

A. That distance is 125 mile average, so there we hit a point where perhaps it becomes a going rate at 125 miles.

Q. Right there, Mr. Christiansen, would you say the Illinois-Wisconsin line might be the dividing line for the short haul rates to points in Northern Illinois?

A. From the Northern Illinois origin group, yes.

By Mr. Bather:

Q. Isn't it a fact, Mr. Christiansen, that the rates to Northern Illinois——

Mr. Vesey: Just a minute, Mr. Bather. May we have that last question and answer read, please Miss Reporter?

(Record read.)

Mr. Vesey: I move to strike the question and answer. Obviously, the question as read by the reporter is a misstatement. We couldn't have the Wisconsin line as a dividing line for Northern Illinois points.

By Mr. Cardy:

Q. Well, approximately. In other words, when you get into Wisconsin, you have a differential adjustment between [fol. 2501] Northern Illinois; and in Northern Illinois you have not a differential adjustment from Northern Illinois to those points, isn't that true?

A. That is substantially correct.

Mr. Cardy: All right.

By Mr. Bather:

Q. Mr. Christiansen, isn't it is a fact that the rate from Northern Illinois to Beloit is based on a differential of $1.00 under Southern Illinois?

A. I don't think it was. I think you will find that the Northern Illinois rate to Beloit was prescribed as a reasonable maximum rate by the Interstate Commerce Commission, and it just happened that the Southern Illinois rate is a dollar greater.

Q. Well, in the original Fairbanks-Morse case, didn't the Commission fix the differential at $1.00 under the Southern

Illinois rate? I am speaking of when the differential between Rockford and Beloit was made 25 cents?

A. I don't think so.

Mr. Bather: The decision will speak for itself. That is my understanding of it, when the adjustment was made.

Exam. Trezise: Off the record.

(Discussion outside the record.)

Exam. Trezise: Go ahead, Mr. Stadell.

By Mr. Stadell:

Q. Well, you are complaining, as I understand it, about the present relationship between the rates from the Fulton-[fol. 2502] Peoria group on the one hand and the Northern Illinois group on the other to these Northern Illinois points?

A. No, I merely point out what the differential is between the two groups for that short mileage.

Q. You mean that you are not seeking any change in that relationship in these proceedings?

A. I haven't asked that they change the Northern Illinois differential in any way. If they fix the differentials for the districts to the south, the Northern Illinois differential will remain as it is.

Q. That is as compared with the rates from Fulton County?

A. That is right.

Q. And you are satisfied to leave that differential or difference between the present rates from Northern Illinois and Fulton County as it is now?

Mr. Vesey: What you mean by that is you are making no objection to it now?

By Mr. Stadell,

Q. Well, you are making no objection; I assume you are satisfied with it?

A. We wouldn't be satisfied with that differential if anything like the present differential Southern Illinois over Fulton County prevailed.

Q. But even if the differentials between Fulton County and all of these other Illinois groups south are changed, as

you have suggested, you are still not seeking in these pro-
[fol. 2503] ceedings any change in the present differences or differentials between the rates to Northern Illinois from the Fulton-Peoria group on the one hand and the Northern Illinois group on the other?

A. No, sir; other than if, for instance, in changing this differential it is necessary to reduce the Fulton-Peoria group, which we think it should be, then it will automatically reduce our relationship with Northern Illinois by that difference.

Q. I understand from your last answer, then, that your theory is that the present rates from the Fulton-Peoria group to Rockford and Freeport and these other Northern Illinois points are unreasonably high and that the differentials that you request be established, Fulton-Peoria versus these Illinois groups, be established by reducing the Fulton-Peoria rates?

A. Yes, sir. That is one way to do it.

Q. Now, you referred to certain short haul rates from the Springfield, Illinois district to points in Illinois. Aren't those rates, or weren't they established to meet truck competition?

A. They might have been, I don't know, if they are there; some of them probably were.

Mr. Kaylor: From the Springfield group to Illinois?

Mr. Stadell: To short-haul destinations in Illinois.

Mr. Kaylor: They would then be in the Springfield group.

Mr. Stadell: No, it is outside the Springfield group.

Exam. Trezise: You didn't mean from the Springfield
[fol. 2504] group at Peoria where the Interstate Commerce Commission prescribed——

Mr. Stadell: No, he referred in his prepared statement to certain rates from certain origins in the Springfield group to what he described as short-haul destinations in Illinois, either east or north of the Springfield group, and my question was, aren't those rates so-called truck competitive rates that have been established by the railroads voluntarily to meet truck competition from the particular origin group to the particular destination to which they apply?

The Witness: I don't know whether they were established to meet truck competition and how much they were reduced to meet that truck competition.

Mr. Vesey: You don't know; that is all.

The Witness: The reference to——

Mr. Vesey: Wait a minute. That is all, you don't know.

The Witness: I wanted to explain why we used them. The relation to the short-haul rates in the Springfield group was used merely to show as you come closer to the mine, the difference between origin groups increased.

By Mr. Stadell:

Q. Regardless of whether the rates you use were the normal rates or truck competitive rates that had been reduced below the normal rates?

A. If they were normal rates they still increased.

Q. Now, in your Exhibit No. 89, page 6, which is a map, you show what you say are the differentials or differences [fol. 2505] between the rates from the Springfield, Illinois group on the one hand and the Southern Illinois group on the other to destinations in Illinois, Wisconsin, Iowa and other northwestern states.

A. That is right.

Q. Now, the differential, difference in rate that you show, for example, of 90 cents at Bloomington between those two groups is not in any sense the differential; it is merely a difference that results in whatever rates happen to have been established from those two groups?

A. Yes, sir, that is the point. It shows there is an increase in that difference as you approach the mine.

Q. Is that true?

A. Yes.

Q. You have got 91 cents at Bloomington and then you get over to Whitehall, it is 56 cents.

A. You are coming from a different direction from Whitehall. To go out into Missouri, which is not shown on here, you would have some 20 cents difference in Missouri; you have 40 cents at Quincy and 56 at Roodhouse; so it shows still an increase as you approach the mine.

Q. Then it depends on which direction you are going as to what the difference is?

A. Yes, because there you are going in a northerly direction and the Southern Illinois is coming north. From the north you are coming straight south towards the South-
[fol. 2506] ern Illinois district, to the Springfield. Now, when you come in from the northwest, you come in with Shenandoah 20 cents, Fort Madison, Iowa, 40 cents and Beardstown, 87.

Q. That is the same theory that you followed in the preparation of the map shown on page 1 of your Exhibit No. 89, showing the differences between the rates from the Western Kentucky group on the one hand and the Southern Illinois group on the other?

A. Yes, sir.

Q. To your knowledge, the Interstate Commerce Commission has never prescribed or approved the differences in rates that you show on this map, page 1 of your Exhibit 89, of 47½ cents Western Kentucky over Southern Illinois group at Mount Vernon or $1.14 Western Kentucky over the Southern Illinois group at Benton, Illinois, rather?

A. No, I have never—I haven't checked it to see whether they did approve it. If they did, I know they wouldn't prescribe a 35 cent differential.

Q. You were asked a question about the rates to Clinton, Iowa, as to whether they were prescribed in the Midland case from the Illinois mines. Were the rates from the Illinois mines to Clinton involved in that case?

A. They were not.

Q. You made some comparisons on the diminishing, your diminishing theory of rates between the Spadra Arkansas
[fol. 2507] group on the one hand and the Pittsburg, Kansas group on the other. The coal produced in the Pittsburg, Kansas and Rich Hill, Missouri group is bituminous coal, isn't it?

A. Yes, sir.

Q. And in the Spadra group it is semi anthracite, isn't it?

A. Well, they call it semi anthracite. The Coal Division found it was bituminous.

By Mr. Kaylor:

Q. Would there be any difference in the way the tariff prescribed them as to the rate?

A. No, there isn't.

By Mr. Stadell:

Q. It is generally sold to the trade as semi anthracite, isn't it, this Spadra coal?

A. I don't know how they sell it.

Mr. Stadell: That is all I have. Thank you.

Mr. Vesey: I have some redirect if there is no other cross.

Exam. Trezise: Any further questions on cross examination?

Mr. Bather: One question:

By Mr. Bather:

Q. Mr. Christiansen, is there any movement of coal from Spadra, Arkansas, or the Pittsburg, Kansas district to the affected territory?

A. No, sir.

Mr. Bather: That is all.

Mr. Stadell: I would just like to ask one or two other questions, if you don't mind.

[fol. 2508] Exam. Trezise: Mr. Stadell.

By Mr. Stadell:

Q. You are familiar with the freight adjustment from the southwestern mines into the territory—take Nebraska, for example.

A. Well, in a general way, yes.

Q. What is the base group in that adjustment?

A. Pittsburg, Kansas, I think is the base group.

Q. And that is the nearest group to the destination territory?

A. Well, Rich Hill is perhaps a little closer. They are adjoining each other; almost abutting against each other.

Q. Does the Rich Hill district take the same rates as the Pittsburg district?

A. I don't know.

Mr. Stadell: That is all.

Redirect examination.

By Mr. Vesey:

Q. Mr. Christiansen, you were queried at some length by Mr. Stadell with respect to the marketing of Fulton-Peoria coal. Did you or did you not make a detailed investigation of the distribution of those coals in connection with your testimony in the Midland Electric case?

A. Yes, sir.

Q. And was there or was there not an exhibit introduced in that case which was prepared by the Southern Illinois operators which showed the distribution of Southern Illinois coals, for example, as against Fulton-Peoria coals in Iowa?

[fol. 2509] A. There was.

Q. Did you have an occasion to make a similar investigation of the distribution of Fulton-Peoria coals in connection with testimony given by you before the Bituminous Coal Division of the United States Department of the Interior?

A. I did.

Q. And are you generally familiar with the distribution of bituminous coals from the Fulton-Peoria origin group and the other origin groups in Illinois?

A. I am.

Q. I ask you whether or not in those studies you learned where there was a breaking point, differentially speaking, which acted as a line of demarcation showing where Fulton-Peoria coals could or could not move as against, say, Southern Illinois coals?

A. I did.

Q. What was that line of demarcation?

A. Where the differential in freight rate as between Fulton-Peoria on the one hand, Southern Illinois on the other hand, was less than 70 cents, we were out of the market.

Q. Did you also go on to project that study to find out what happened to the distribution of Fulton-Peoria coals even in their own home markets, and by that I mean markets adjacent to the mines, where the differential Fulton-Peoria under Southern Illinois ranged between 70 cents and a dollar?

[fol. 2510] A. Yes, sir.

Q. Did you make a similar study with respect to the distribution of those coals where the differential Fulton-Peoria under Southern Illinois ranged from 60 cents to 70 cents?

A. I did.

Q. Will you please tell us what the result of that investigation was, (1) when you were in the 60 cent to 70 cent differential territory; secondly, when you were in that 70 cent to a dollar territory?

. . . . . .

[fol. 2511] The Witness: It showed that we were unable to ship coal to the territory where we had a 60 cent differential or, that is, from 60 to 70 cents. Where we had a differential from 70 cents to a dollar, we were able to market the bulk of our coal.

By Mr. Vesey:

Q. Now, did you hear yesterday certain witnesses testifying, I believe from Freeport and Rockford, with respect to their purchases of coals from the Middlewestern fields?

A. Yes, sir.

Q. Did you hear those witnesses testify as to their use of [fol. 2512] Fulton-Peoria coals?

A. Yes, sir.

Q. Would you say, Mr. Christiansen, that their testimony with respect to the coals that they use, particularly with reference to their use of Fulton-Peoria coals, was typical of the coal purchases by consumers in the territory that is referred to in this case as the affected territory?

A. Yes, sir.

Mr. Stadell: Oh, I object to that, Mr. Examiner, and I move to strike the answer of the witness.

Exam. Trezise. As to what somebody testified to in another case——

Mr. Vesey: This is in this case, right here, yesterday. These witnesses testified——

Exam. Trezise: Oh, you mean in this case?

Mr. Vesey: Exactly.

Exam. Trezise: I misunderstood you.

By Mr. Vesey:

Q. Now, you said their testimony was typical of the consumers in the affected territory. Mr. Christiansen, I ask you, did you answer that question on the basis of your experience gleaned in the exclusive sale of the Fulton-Peoria coals during the period of time that you were the managing director of Middle States Fuels, Incorporated?

A. Yes, sir.

Q. And that is an organization that had the exclusive [fol. 2513] sale of these coals during the period 1940-August 23, 1943, is that correct?

A. Yes, sir.

Q. And you were manager and directly in charge of those sales?

A. Yes, sir.

Q. Now, Rockford, I believe, is in the 60 cent differential territory?

A. Yes, sir.

Q. Beloit, Wisconsin, I believe is also in the 60 cent differential territory?

A. Yes, sir.

Q. Those markets today are or are not substantial markets for Fulton-Peoria coals?

A. They are not.

Q. They are not?

A. That is right.

Q. Do you know of any reason, Mr. Christiansen, why Fulton-Peoria operators should not be given an opportunity to market their coals on a competitive basis in those two towns?

A. I know of none.

Q. In your opinion, would the change in the differential, Fulton-Peoria under Southern Illinois, in compliance with the differential established on July 19, 1925, aid in the re-establishment of competitive conditions Fulton-Peoria as against the other origin groups in Illinois in those two movements?

[fol. 2514] A. It would.

Q. Is there a substantial movement of Fulton-Peoria coals via river movement today?

A. There is.

Q. Is there a substantial movement via truck movement today?

A. Not from the rail shipping mines. There is a substantial movement from some 228 truck mines in the Fulton-Peoria district.

Q. In your opinion, have the prevailing freight rate differentials in the affected territory, Fulton-Peoria as against Southern Illinois, affected in any way the movement of those coals into that territory?

A. Yes, sir.

Mr. Stadell: I object to that question, Mr. Examiner. It calls for a conclusion of the witness. It assumes a lot of facts that haven't been proven.

Exam. Trezise: May we have that question read, please, Miss Reporter.

(Question read.)

Exam. Trezise: Oh yes, yes. You can answer that.

Mr. Vesey: Sure.

Exam. Trezise: You can ask him how he knows that, if you want to.

By Mr. Vesey:

Q. And is the basis for that answer again the basis which you gave a few moments ago, that is the experience gleaned [fol. 2515] by you in the marketing of the Fulton-Peoria coals in this territory?

A. Yes, sir.

Q. Did you or did you not during that period of time make a concerted effort, through your selling agents, to market Fulton-Peoria coals in the affected territory?

A. We did.

Q. Is that a territory that is regularly solicited by you?

A. It is.

Q. And by the Fulton-Peoria operators as a whole?

A. Yes, sir.

Q. It is an active competitive territory, regardless of the amount of coal shipped into that territory?

A. Yes, sir.

Mr. Vesey: That is all.

Exam. Trezise: Do we have further questions?

Mr. Cardy: I have one or two questions on this Dixon situation when Mr. Vesey gets back.

Exam. Trezise: All right, Mr. Cardy.

By Mr. Cardy:

Q. Mr. Christiansen, is there any coal that moves from the Fulton-Peoria district to Dixon, Illinois?

A. There is.

Q. From what point of origin?

A. There is some moves from Victoria and there is some moves from Fulton County mines itself.

[fol. 2516] Q. Did your exhibits show the distance Victoria to Dixon?

A. Victoria?

Q. Yes.

A. 110 miles, I think.

Q. 110?

A. Yes, sir.

Q. Over what railroads, if you know?

A. Galesburg and Great Eastern; C. B. & Q.; C&NW.

Q. You have referred to the rate from the Fulton-Peoria district to Linwood?

A. Yes, sir.

Q. Do you know how that traffic is handled from Fulton-Peoria to Linwood?

A. Yes, sir.

Q. Over what routes?

A. It is handled from C. B. & Q., it is handled C. B. & Q.-East Moline-Chicago, Milwaukee, St. Paul & Pacific; or C. B. & Q-Silvis-C.R.I.&P. The C. B. & Q. Railroad could haul the coal direct to Davenport and handle it on a switching charge to the Linwood plant, because the Linwood plant is in the Davenport district. The switching charge is 30 cents per ton.

Q. Is there a switching charge at Linwood? I didn't quite understand your answer.

A. Only when they haul it to Davenport and turn it over [fol. 2517] to the switching lines to deliver from Davenport.

Q. Is there any switching charge for delivery at Dixon?

A. No, sir.

Q. Do you know how large these plants are located at La Salle, which is south of the Dixon plant; whether they are small or large?

A. They are, for example—you mean the cement plants?

Q. Yes, cement plants.

A. They are large. They use a large amount of coal.

Q. How do they compare with the size of the plant at Dixon?

A. Well, the Marquette Cement Company at La Salle uses approximately 200,000 tons of coal and the plant at Dixon uses about 90,000, I would say.

Q. Now, do you know anything about the delivery of coal at Dixon, hauled in by the Illinois Central, as compared with delivery of coal at La Salle? Is there any connecting line switching at either point?

A. There are three plants at La Salle. One of the plants buys their coal for river movement entirely. The other two receive their coal by rail. I don't know what the switching arrangements are at the Lehigh Cement Company's plant or the Alpha Cement Company's plant.

Q. What about the plant at Oglesby?

A. Well, that is either Lehigh or Alpha. I think that is Lehigh.

[fol. 2518] Q. And what road is that on?

A. I don't know.

Mr. Cardy: I think that is all at this time?

Exam. Trezise: Any further questions?

Mr. Biaett: I have a few questions.

Exam. Trezise: Mr. Biaett.

Recross examination.

By Mr. Biaett:

Q. Mr. Christiansen, whether or not there will be an absorption of a switching charge at Dixon depends upon the delivering carrier, does it not?

A. Yes, shipments moving in over the Illinois Central would have, I believe it is a $2.97 switch charge to absorb.

Q. To get over to industries on the North Western?

A. That is right.

Q. But if the industries are located on the Illinois Central, there would be no absorption, would there?

A. That is right.

Q. Now, what groups take a lower rate to the affected territory other than Fulton-Peoria?

A. There are none. Well, Northern Illinois.

Q. And I presume from your testimony that Northern Illinois ships the bulk of the coal consumed in this territory?

A. No, sir.

Q. What groups do ship the bulk of the coal consumed in this territory?

[fol. 2519] A. Southern Illinois and Indiana.

Q. What groups in Indiana?

A. I don't have the actual figures available, but the Linton-Sullivan and the Princeton-Ayrshire groups I believe are the big shippers in the Indiana group to Rockford, at least.

Q. And generally how much lower is the rate from Fulton-Peoria to these destinations than the rates from Linton-Sullivan and Princeton?

A. They are 40 cents lower than Linton-Sullivan.

Q. You would be 47 cents lower than Princeton?

A. That is right.

Q. And your rate is also lower than Southern Illinois, is it not?

A. That is right.

Q. Now, can you tell me in what manner the freight rate adjustment impedes the movement of your coal when you have rates ranging from 40 to 60 cents lower than your competing groups?

A. One of the factors is the quality. We have the poorest quality of coal in the state of Illinois or Indiana.

Q. And that is the sole reason, is it not?

A. No, that is not the sole reason. That is one of the reasons.

Q. Is it the most important reason?

A. It is one of the very important reasons, yes.

Q. And I presume, since you cannot compete on your present adjustment, even though you have a substantially [fol. 2520] lower rate than Linton and Princeton in Southern Illinois, that you are asking the Commission to take into consideration the quality of your coal?

A. No, I am not asking the Commission to take that into consideration, only to this extent: We don't want the

carriers or the Commission to reduce these rates from these far-away groups with their better quality of coal to such an extent that Fulton County can't sell in its home market.

Just as an illustration, at Dixon, Illinois, you have a 50 cent differential; in other words, Southern Illinois rate has been reduced down until it is only 50 cents above Fulton County. At Cedar Rapids, Iowa, it is 70 cents. Southern Illinois has been reduced 20 cents. We don't want these rates reduced to that extent, that it bars us from selling in our home market, and that is just what it does.

Q. Well, that is a condition separate and apart from the transportation conditions surrounding the movement of coal, is it not, Mr. Christiansen?

A. No, sir.

Q. Then in what manner does it affect the transportation conditions?

A. I will cite you an example. If tomorrow the carriers that serve the Inner and Outer Crescent would publish a $2.10 rate to Chicago, Southern Illinois wouldn't sell one nickel's worth of coal in Chicago with the $2.05 rate, and [fol. 2521] yet they would be 5 cents less. Now, Chicago——

Q. And yet the difference would not be in the freight rate relationship, would it?

A. It certainly would be there.

Mr. Vesey: You mean the difference in the amount of sales?

The Witness: And that is what has happened here.

By Mr. Biaett:

Q. The fact that Southern Illinois, under your hypothetical situation, wouldn't sell its coal in Chicago wouldn't be caused by the freight rate from Southern Illinois?

A. It would be caused by the carriers that would prefer the eastern district by hauling coal twice or three times as far for approximately the same rate, and that is what has happened here.

By Mr. Vesey:

Q. In other words, what you are complaining of, as I understand it, is the preference that is accorded other origin groups against Fulton-Peoria in what is commonly referred to as Fulton-Peoria's home market?

A. That is right.

Mr. Kaylor: Have you got in this record what your market is today, where you market your coal today?

Mr. Vesey: Where we market today?

Mr. Kaylor: Yes. You don't seem to have a market in Illinois. I am wondering if he had a market at all.

Mr. Vesey: It is shown generally in here. If you would [fol. 2522] like to have it specifically, we will give you the answer.

Mr. Cardy: We will give you that in the morning. We will have a witness here.

The Witness: It is not in the affected territory. We are not marketing——

By Mr. Kaylor:

Q. If you don't have it at home, I wanted to know where it was.

A. The Tri-Cities, Peoria.

Exam. Trezise: Further questions?

Mr. Biaett: That is all I have.

Mr. Scott: May I ask one question?

Exam. Trezise: Mr. Scott.

By Mr. Scott:

Q. Mr. Christiansen, you stated that the tonnage from Indiana moved for the most part from the Linton-Sullivan district to Rockford.

A. I said Linton-Sullivan and Princeton.

Q. Can you tell me on what railroad the Linton-Sullivan tonnage moves; the preponderance of it, rather?

A. I think the Milwaukee, most of it.

Mr. Scott: Thank you. That is all.

Mr. Stadell: I have another question.

Exam. Trezise: Mr. Stadell.

By Mr. Stadell:

Q. Isn't it true that considering any mine or any group of mines that the tendency is to sell their coal in the markets or at the points where they can get the greatest price?

[fol. 2523] A. Certainly. Every mine does that.

Q. So that if, in relation to their competitors, they have a rate of $1.00 per ton less at a certain point, they will sell

their coal there instead of selling it somewhere else, where the difference is 40 or 50 cents a ton?

A. That is correct.

Q. Because it increases their realization of profit?

A. That is right; up to the point where they have a surplus of coal or where they are not being able to market their normal productions.

Q. Have the mines in the Fulton-Peoria district or at Atkinson got any surplus coal at the present time?

A. No, there isn't any mine in the United States that has got surplus coal at the present time; haven't had for a year.

Q. How long has it been since the mines in the Fulton-Peoria district have had a surplus of coal?

A. All through the year of 1942.

Q. In other words, during the entire year of 1942 they have sold all of the coal that they could physically produce?

A. No, I said all through the year of 1942 we have had a surplus until about, say, October, 1942.

Q. And from then on you haven't had any surplus?

A. No, sir, or no one else.

Q. Now, could you take any plant in Rockford, Illinois, or [fol. 2524] Freeport——

A. What do you mean, take it?

Q. I mean take the plant, any plant in any of these Northern Illinois points and demonstrate by means of steam tests or cost per thousand pounds of steam for Fulton-Peoria coal on the one hand and Springfield or Southern Illinois coal on the other——

A. I think Mr. Hampshire——

Q. Why you can't compete on your present freight rate adjustment?

A. I think Mr. Hampshire illustrated that very fine yesterday. He said for the Indiana——

Q. I am asking you if you can do it. I am not interested in what he did.

A. I haven't made any steam test that I have available here today. I know we were not able to take business in Rockford during the year 1942 because I know how we tried to sell it.

Q. Isn't it true that the bulk of the screenings coal business or fine coal business in Rockford is being shipped from mines in Indiana rather than mines in Illinois?

A. Yes. It was in 1942 and I think it is in 1943.

Q. And while in 1943 one of the mines in the Fulton-Peoria district got some of the tonnage of the utility plant at Rockford, that was because the Indiana mines had so much business elsewhere that they couldn't supply that quantity of tonnage?

[fol. 2525] A. That was a war condition, yes, sir.

Mr. Stadell: That is all.

Exam. Trezise: If there are no further questions——

Mr. Biaett: Just a minute; I have one further question, please, Mr. Examiner.

Exam. Trezise: Mr. Biaett:

By Mr. Biaett:

Q. Just how much poorer is the quality of your coal than that produced in Southern Illinois, Linton or Princeton?

A. I couldn't tell you in cents.

Mr. Vesey: In what respect?

Mr. Biaett: That is all.

Mr. Vesey: Can you pin your question down to some common denominator so he could answer you? I am sure the witness will be glad to answer you either on the basis of British Thermal units as a basis of comparison, moisture as a basis of comparison, degradation or any basis you want to take.

Mr. Biaett: He has already answered the question as far as I am concerned.

The Witness: I can refer you as to what the Coal Commission fixed as to the difference in the two qualities of coals.

Mr. Biaett: I object to that, Mr. Examiner. The Coal Commission is a defunct agency and what they did is no longer of any importance.

Exam. Trezise: He is trying to help, Mr. Biaett.

[fol. 2526] Mr. Biaett: I don't need any help, Mr. Examiner. I am satisfied.

Exam. Trezise: Any further questions?

Mr. Vesey: Just one other question.

Redirect examination.

By Mr. Vesey:

Q. As I understand your testimony in answer to Mr. Stadell as to the markets of the Fulton-Peoria coals, the markets of those coals were, as you stated, in western, northwestern Illinois, eastern Iowa——

A. Peoria.

Q. In other words, I would take it from that answer, as shown by the evidence in this record, that those markets are in those territories where you have a differential relationship Fulton-Peoria under Southern Illinois of from 70 cents to a dollar or greater?

A. That is correct; or greater.

Q. So that by a mere examination of your differential or difference in rate territory the markets for your Fulton-Peoria coals can be immediately ascertained?

A. Yes, the present markets; but that is not what we consider our home market. Our home market would be all of the northern part of the state of Illinois, which we are not able to get into today.

Mr. Vesey: That is all.

Recross examination.

[fols. 2527-2533] By Mr. Stadell:

Q. Weren't there bids recently submitted for the coal requirements of the Sanitary District of Chicago involving approximately 75,000 tons on which the various mines in Illinois bid?

A. Yes, sir. Not recently. There was—well, there was recently, but we didn't get it.

Q. About a year ago, something like that?

A. There was—each year the Sanitary District advertises for coal.

Q. And on what basis were the bids asked?

A. I think they asked for various prices; that is BTU's for a cent, with a lot of adjustment for ash and moisture and what have you.

Q. And the Fulton-County mines secured that basis, did they not, in competition with the mines in Belleville, Southern Illinois and the rest of Illinois?

A. They secured some of the business in 1942, yes, sir.

Q. That was how much tonnage, approximately 75,000 tons?

A. Yes, the original contract was for 75,000 tons.

Q. And the Sanitary District that I referred to is the Sanitary District of Chicago, located in Chicago?

A. Yes, sir.

Mr. Stadell: That is all.

By Mr. Vesey:

Q. Is that a rail or water movement?

A. That was a rail movement.

[fol. 2534] R. H. May, was sworn and testified as follows:

Direct examination.

By Mr. Cardy:

Q. Will you state your name.

A. R. H. May.

Q. Where do you reside and what is your connection with the Northern Illinois Coal Corporation—give us your business address rather than your residence.

A. My address is 310 South Michigan Avenue, Chicago, Illinois.

Q. What is your connection with the Northern Illinois Coal Corporation?

A. Manager of the Northern Illinois Coal Corporation, the Tecumseh Coal Corporation, and the Sunlight Coal Company.

Q. What is the nature and business of the Northern Illinois Coal Corporation?

A. Producing coal.

Q. At what point?

A. Wilmington, Illinois.

Q. In what group is that?

A. It is the Northern Illinois group, and the Wilmington mine is the only large mine in that group.

[fol. 2535] Exam. Trezise: You will have to talk a little louder.

By Mr. Cardy:

Q. How long has that mine been in operation, Mr. May?

A. The Wilmington mine.

Q. Yes.

A. It has been in operation since 1928.

Q. Did you state how long you were with that company?

A. No. I was with that company since October, 1924.

Q. Now, briefly, will you state your railroad experience in the mining and sale and distribution of coal in the state of Illinois and Indiana and other adjacent territory.

A. I was with the Burlington railroad in their coal traffic department for some fifteen years as chief clerk, and later in charge of coal traffic. During the World War No. 1 I was deputy district representative in the Fuel Administration. In 1920 I went to St. Louis as vice-president of the Southern Coal, Coke & Mining Company, which operated mines in the Belleville district. In 1924 I came to Chicago in my present capacity.

Q. Would you say that you are familiar with the freight rate structure, in so far as coal is concerned and the distribution of coal and the sale of coal in this territory, and have been for a great many years?

A. My work has all been along those lines.

Q. Now, can you briefly give us a description of the so [fol. 2536] called Northern Illinois field? What is the extent of the operations? You say that your mine is the largest mine. Give us a description of your mine and then tell us what other mines are in the district and how they dispose of their coal, just briefly, so we will have a picture of the Northern Illinois field.

A. The No. 10 mine of the Northern Illinois Coal Corporation at Wilmington produces from 1,200,000 to 1,300,000 tons a year. It is served by the Alton Railroad and the

Santa Fe Railroad, and the distribution of the coal is mostly to nearby points. I would say 150 miles or maybe a little over would cover the area of distribution.

The other mines in the district are mostly small mines or practically all small mines. The principal ones are the Osage Coal Company and the Wilmington Mines, Incorporated which is Braidwood. Their coal moves principally by truck and their rail shipments consist mostly of fine coal, and when they have a surplus they try to dispose of it by rail, and I don't think either one ships much over 100,000 tons a year by rail.

Q. In other words, is that about the extent of their rail shipments, 100,000 tons?

A. I would say that was the maximum, the bulk of it moves by truck.

Q. Are there any other mines located in Northern Illinois that produce coal, whether they ship it by truck or rail?

A. Yes, there are some truck mines, Morris Coal Mining [fol. 2537] Company, and maybe some others. I am not particularly familiar with them.

Q. About how many of those smaller mines would you say are located in Illinois?

A. I don't know, Mr. Cardy.

Q. At one time there were, were there not, a large number of so-called shaft mines in the Northern Illinois district?

A. At one time the Northern Illinois district was the largest coal producing district in Illinois.

Q. Now, just generally speaking, can you tell us where you distribute your coal from the Northern Illinois mines, where is your market for Northern Illinois coal I am particularly talking about now?

A. The heaviest movements are to the two railroads that serve the mine and to the Chicago area. There is some movement to the points involved in this case. We ship as far north as Madison, Wisconsin.

Q. What have you to say with respect to whether or not there is a very substantial truck movement from the mines

in Northern Illinois to a radius within probably 50 or 75 or 100 miles?

A. There is a very substantial movement.

Q. Now, Mr. May, in this proceeding the carriers propose to increase the rates from your mine at Wilmington from five to twenty cents a ton to points in Northern Illinois, exclusive of Chicago, and some other points, but gen- [fol. 2538] erally speaking, to practically all destinations in Northern Illinois, where any coal moves by rail. What would you say would be the effect upon the movement of your coal from your mine by rail if the rates are increased from 5 to 20 cents a ton?

A. It would undoubtedly decrease the rail movement. It has always been my policy to keep as much of our production on the rail as we possibly can. But if an increase in these rates is brought about, it would force us probably to ship more coal by truck.

Q. Is most of the coal that is taken away by truck handled by so-called contract carriers or is the Northern Illinois Coal Corporation in the trucking business itself?

A. No, we are not in the trucking business and we do not deliver a single pound by truck or any other method of transportation. The trucks come to the mine to load, and our sole interest in the matter is selling the coal at the mine.

Q. Now, Mr. Christiansen testified that from the Fulton-Peoria District to the points in Northern Illinois where increases are proposed, it is more or less of a hodgepodge adjustment in rates. In other words, there is no rhyme or reason in the method of constructing rates from that district. Is that also similar and true so far as the construction of rates from Northern Illinois to this territory is concerned?

A. No, that is not true as far as the rates from Wilmington to this territory in Northern Illinois and Southern Wis- [fol. 2539] consin *is* concerned.

Q. Tell us what the situation is.

A. Most of the rates—there are exceptions—that we have from Wilmington to this territory were established as a result of the decisions of the state and Interstate Com-

missions and they were based principally on the service performed by the carriers. They are not related to any other group by differential and are supposedly, to the best of my knowledge and belief, just and reasonable rates for the service performed.

Q. Now, outside of possibly the rate to Chicago and some of these other points, will you turn to the carriers' exhibit, which I think you have before you, showing the adjustment from Northern Illinois to Belvidere and the proposed increases. What have you to say with reference to that? I believe it is in Section 5.

A. I have Mr. Robertson's Exhibit No. 4.

Q. I think it is section 5, page 3, as I have it here.

A. That would be Belvidere?

Q. Yes. Now, will you notice that the Wilmington mine's distance of 94 miles is shown, and the rate is $1.05, and the carrier's propose to increase that rate to $1.25—20 cents a ton. What have you to say about that proposal, Mr. May? Have you got that before you?

A. The movement from Wilmington to Belvidere on the $1.05 rate has been negligible and I would say that an in- [fol. 2540] crease of 15 cents per ton is entirely unjustified.

Q. 20 cents a ton.

A. Or 20 cents a ton, was entirely unjustified by any method of rate making.

Q. In other words, today you might say the rate is a paper rate, and they are putting 20 cents a ton on it, is that correct?

A. That is correct.

Q. Do you know whether or not there is a truck movement to Belvidere from any of these truck mines?

A. Yes, there is.

Q. Now, turn to DeKalb, what have you to say about the adjustment to DeKalb?

A. In that case for a distance of 74.6 miles they propose a 5 cent increase, from $1.35 to $1.40, and again I see no justification for it. The $1.35 rate moves very little tonnage, and certainly——

Q. What do your records indicate as to whether or not Northern Illinois, which is the largest mine in the state, moved any coal to DeKalb?

A. To DeKalb in 1942, 1,082 tons; in 1943, 195 tons.

Q. I take it that you have examined some of these others and there are similar situations without encumbering the record. They are all shown. But just briefly now, can you see any justification, so far as the carriers or the consumers [fol. 2541] or shippers are concerned, which would justify increases, since they have suggested these short haul rates in Northern Illinois territory?

A. None whatever.

Mr. Biaett: Mr. Examiner, I have no objection to Mr. May stating his position from the standpoint of shippers, but I do object to him stating his position from the standpoint of carriers or the consumers. It hasn't been shown that he is qualified to speak for either the carriers or the consumers.

Mr. Cardy: He was with the Burlington for a great many years.

Mr. Biaett: Well, he is not speaking for the Burlington.

Mr. Cardy: Well, that is true.

Exam. Trezise: Mr. May, of course, appears for the coal companies that he named.

Mr. Cardy: Yes.

Exam. Trezise: He doesn't appear for anyone else?

Mr. Cardy: No, that is true. Of course, I was asking the effect.

By Mr. Cardy:

Q. I will ask the question in this way: is it your opinion at this time that the present rates from Northern Illinois to points in Illinois have any effect upon the movements of coal moving in interstate traffic to this destination territory?

A. No.

[fol. 2542] Q. That is particularly to the points where increases are proposed?

A. They have no particular effect upon the movement of interstate traffic. The tonnages speak for themselves.

Q. Now, Mr. May, you have stated also that you operate two other mines. Where are they located and in what district, and give us the names of them.

A. The two mines are the Tecumseh Coal Corporation located at Tecumseh, Indiana, on the New York Central Railroad; and the Sunlight Coal Company located near Boonville, Indiana, on the Southern Railway. The Tecumseh mine is in the Princeton-Ayrshire group and the Sunlight mine is the so-called Boonville group, which is really part of the Princeton-Ayrshire group. That one mine is practically the whole group.

Q. When was the Tecumseh mine opened up?

A. 1940.

Q. What is the extent of that operation?

A. It produces something over a million tons a year, say 1,300,000.

Q. And prior to the shipping of coal from that mine, what rates did the carriers establish or put into effect that took care of the first movements from that mine?

A. The first load moved from that mine on the Princeton-Ayrshire rates. Prior to the opening of the mine, the Boonville rates were published, but when that was called [fol. 2543] to the carriers' attention, they immediately corrected it and put in the Princeton-Ayrshire basis.

Q. In other words, after the mine commenced to ship coal, it has continuously been in the Princeton-Ayrshire group?

A. That is correct.

Q. And there was no shifting from one group to another as has been intimated in this proceeding, so far as the Tecumseh Coal Corporation is concerned?

A. No, the coal is all moved on the Princeton-Ayrshire rate.

Q. Now, first tell me how far the Tecumseh mine is from the Boonville mine?

A. Cross country the Tecumseh tipple is ten miles from the Sunlight tipple, and the Tecumseh mine produces coal from land leased from the Sunlight Coal Company. In other words, both mines are on the same property.

Q. They are adjacent mines, are they not?

A. Yes.

Q. Is there any difference in the freight rate to the affected territory, Tecumseh versus Boonville?

A. The Boonville rate is 3 cents per ton higher than the Tecumseh rate.

Q. Although some of the land that the Tecumseh mine is mining from is owned by the Boonville company and in the so-called Boonville district?

A. That is correct.

[fol. 2544] Q. Now, Mr. May, it is proposed in this proceeding to increase the rates from Boonville to the extent of 15 cents a ton, both from Boonville and Tecumseh—strike that out, first.

First I will ask you to state what the markets are for Indiana coal. Tell us as much as you can in detail where Indiana goes with its coal, into what markets it is limited, if any.

A. The principal markets for Indiana coal are within the state of Indiana. There are considerable tonnages that move to Chicago and to Northern Illinois and west, even some small tonnages into Iowa. But aside from that, the Indiana market is quite restricted. The eastern half of Indiana is not available to them because that is an eastern coal market, built largely by Ohio and other eastern coals and the burning equipment in that territory seems better suited to the eastern coals, and Indiana has never found much of a market east of the city of Indianapolis. You could almost draw a line from north to south and find very little tonnage moving into the eastern part. On the west they ship a little coal into nearby Illinois towns, such as Mt. Carmel and points along the line, but they don't go deeply in there because of the competition from Illinois mines.

Q. Do they get into the east St. Louis or St. Louis market on the west?

A. They don't get in there. They don't move south of [fol. 2545] the Ohio River, where West Kentucky coal is produced. So that all in all their markets are pretty well restricted to Indiana and part of Illinois, the northern part of Illinois, Southern Wisconsin, Iowa. They have had some slight movement to Michigan, but very slight. That is not a market for Indiana coal.

Q. Now, what effect would you say that an increase in the rates from your Tecumseh and Boonville mine would have on the movement of coal to this territory, Northern Illinois territory?

A. Such an increase would decrease the movement of coal.

Q. Now, Mr. May, it has been intimated in this proceeding that distance should be one of the primary factors in constructing rates from Indiana and Illinois to this territory, and having in mind particularly the location of the Boonville district, what would you say with reference to that situation, and I call your attention to the carriers' exhibit 4, section 3, page 3, showing the adjustment to Belvidere. I would like to have your comments on that situation, particularly where it is proposed to construct rates using the short tariff routes from each group, giving considerable weight to the difference in distance.

A. Page 3 of Exhibit 4, to which you refer, shows distances and rates to Belvidere, Illinois. It shows the distance from Boonville to be 400.4 miles.

Mr. Stadell: What point is that?

The Witness: That is from Boonville to Belvidere, there [fol. 2546] being practically only one mine in the group, and that is the only distance shown. For Southern Illinois the distance, short tariff route, is 364.8 miles; long tariff route, 521.2 miles. Now, if they are to consider the single mine at Boonville as the basis for making these rates, and bear in mind that that is the most southerly mine in any of the Indiana groups, it would seem that the same basis should be applied to the most southerly mine in the Southern Illinois group, for example, which, of course, would make the rate from some Southern Illinois mines higher than from Boonville.

By Mr. Cardy:

Q. Turn over to page 5 and comment on the situation showing the rates to DeKalb.

A. I would like to point out on that Belvidere exhibit, before I leave it, that the spread between the short tariff route and the longest tariff route for Southern Illinois is 156.4 miles, while for the Princeton group the spread between the shortest and longest tariff routes is only 127.3,

and that the addition of Boonville to the Princeton-Ayrshire group would not make as great a spread as they have in Southern Illinois.

Q. Now, briefly comment on the situation at DeKalb, will you, Mr. May.

A. The distance from Boonville to DeKalb is shown as 380.5 miles. From Southern Illinois, shortest tariff route, 313.8 miles, and longest tariff route 393.2 miles. In that case also the longest tariff route exceeds the distance from [fol. 2547] the single mine at Boonville.

Q. Now, look at the last column, at the average from the group. Notwithstanding the fact the longest distance is greater than that and the Boonville mileage is lesser than the longest tariff route, the average from the group is less than Boonville?

A. That is correct, 327.4.

Q. What is the reason for that, Mr. May?

A. Because they have taken the shortest hauls and the longest hauls and averaged them together. That is merely an average and shows the extent of the spread of the group.

Q. Isn't it because of the fact in figuring the average mileage from the group they have included a great many mines and figured an average giving the benefit to the long haul mines, where Boonville only having one mine——

Mr. Stadell: Just a minute. I object to the assumption in the question that Boonville only has one mine. It hasn't been shown here.

By Mr. Cardy:

Q. All right, I will ask you, Mr. May, to tell me the reason for it. Tell me the reason why from Boonville the longest tariff route is 380 miles and the longest tariff route from Southern Illinois is 393 miles, and when you get over to the mileage in the average group which they used for rate making purposes, Southern Illinois is shown as 347 and Boonville is shown as 385. Tell me why there should [fol. 2548] be that difference?

A. Because the Boonville mileage is from a single point, while the average mileage is from a group where some hauls are longer than others. So that the average pulls down the distance from the long haul mines in that group.

Mr. Biaett: Is Mr. May testifying from his own knowledge or is he purportedly interpreting the exhibit?

The Witness: I am reading just what is in the exhibit.

Mr. Cardy: This is the carriers' exhibit, Mr. May?

The Witness: Yes.

Mr. Biaett: And the carriers' exhibit shows there is only one mine in the Boonville group?

The Witness: I will state there is only one mine in the Boonville group of any importance.

Exam. Trezise: And that the distance is figured from that one mine, that is what you have said?

The Witness: Yes, it shows clearly it is figured from Boonville. It doesn't say from Southern Indiana, as it does in the case of Southern Illinois.

Mr. Biaett: It is figured from the tariff origin points, is it not, on that exhibit?

The Witness: I would take it that exhibit says it is taken from Boonville, and knowing there is no other mine of any importance except Boonville, I would say that mileage is the Boonville mileage.

[fol. 2549] Mr. Cardy: Mr. Biaett, it shows the shortest and longest route is 380.5; that is the shortest and longest route. There can be only one mine taken.

Mr. Biaett: I think we all understand the true situation.

Exam. Trezise: Well, are we confusing the record with these statements? The Examiner understood that in taking the points of origin to determine the average rate from the group that time and time again it has been gone over that we should select the tariff origins from which to figure our distances. Now, I assume that that has been done. Now, you say it has not been done here. Now, that is a little confusing to me.

Mr. Biaett: Those are our exhibits and our witnesses stated they took the tariff origin points. If Mr. May wants to put in that they didn't, why, you can put it in for what it is worth.

The Witness: I didn't say they didn't put it in.

Mr. Biaett: Well, you are misinterpreting the exhibits that were put in by the people who prepared them.

The Witness: Will you point out to me where I misinterpreted it?

Mr. Biaett: Certainly. The mileage from the Boonville group is the average mileage from the tariff origin points shown in the Southern Railway tariffs in the Boonville group. The shortest tariff route is the shortest tariff route via a connecting line with the Southern. The longest tariff [fol. 2550] route is the longest tariff route via the longest connecting line, from the average of the origin points in the group.

The Witness: And the exhibit shows that the longest tariff route, the shortest tariff route, and the average from group mileages are identical.

Mr. Biaett: Well, that is because they only have one tariff route from the Southern to that particular destination.

Mr. Cardy: Mr. May, I think the record is clear on mileages, and let us get on to something else. We could talk here for two or three days, and I think the Commission understands very well.

Exam. Trezise: Well, the Interstate Commerce Commission Examiner understands clearly, definitely, specifically and without equivocation that these distances are figured from the tariff origins, unless it has been shown specifically that there is no mine at these particular points. Now, if you throw a lot of things in here to confuse the issues, no one can tell in such a record as this just what the fact is, and I am stating my understanding. Now, if I am wrong, it ought to be shown here very specifically that my understanding is wrong.

Mr. Cardy: Well, if I follow that question a little bit further, I would come to the same results. But nevertheless, the exhibits show what I want to show, and I can show it on brief; so I will not argue with the witness on that here.

By Mr. Cardy:

Q. Now, Mr. May, as I understand it, you have had a [fol. 2551] great deal of experience in the method of constructing coal rates and the natural, normal basis and proper basis for constructing coal rates from the various mines in Illinois to the points in Northern Illinois, Wisconsin, and other points, is that true?

A. I have had a good deal of experience of that kind.

Q. And you are familiar with all the various coal mining groups in Illinois and Indiana, are you not?

A. Yes, sir.

Q. What would you say, where you have a situation where one railroad possibly two, have lower rates from the same group to a common destination than obtain from other points of origin in the same group via other carriers?

A. The movement is over those lines having the lower rates.

Q. Well, I am directing your attention particularly to the adjustment of the Milwaukee and the Illinois Central from the Brazil-Clinton and Linton-Sullivan district to this territory as compared with the rates from other mines, from mines located on other roads. Are you familiar with that adjustment down there?

A. I know that the Milwaukee rates are lower than the rates over the other lines.

Q. What do you say about an adjustment of that kind?

A. I would say it was a maladjustment; if they are going to compete, they should be the same.

[fol. 2552] Q. Now, so far as your familiarity with the adjustment in Indiana to this territory, how would you say that that maladjustment ought to be corrected?

A. It is my opinion that the rates published by the Milwaukee are on the proper relative basis compared with the Illinois rates, and that the Indiana rates from other districts should be adjusted to the rates of the Milwaukee from the Brazil-Clinton District.

Mr. Cardy: Cross examine.

Cross examination.

By Mr. Biaett:

Q. Mr. May, do you get a higher price on coal that you sell to trucks than on coal you sell to railroads or coal that you sell for movement by railroads?

A. Yes.

Q. On the average how much higher?

A. Under normal conditions 75 cents to $1.00 a ton higher.

Q. Now, you stated, I believe, that the rates from the Northern Illinois group, from the Wilmington mine, to the suspended territory in Northern Illinois and into Wisconsin

had been prescribed by the Commission, either the Illinois Commission or the Interstate Commission.

A. Largely.

Q. Are you familiar with the cases in which those rates were prescribed?

A. To some extent, yes. I participated and testified in [fol. 2553] some of those cases.

Q. Can you give us reference to those cases?

A. I couldn't without looking them up, because I don't carry the case numbers in my mind as some of your railroad men do.

Q. Do you know from and to what points the rates were prescribed?

A. Oh, yes, the rates from Wilmington to Rockford were prescribed, to Beloit, Janesville, Edgerton, Madison, Janesville.

Q. I believe you stated that Boonville was the most southerly mine in Indiana, is that correct?

A. That is correct, with the exception of a small mine on the E&OV Railroad out of Evansville, which doesn't ship any coal anywhere, and I don't think it is operating now.

Q. You mean there is only one mine in the Evansville district?

A. No, there were other mines—there is a Crescent mine right in Evansville.

Q. That is in the Indiana group, is it not?

A. It is in a different group from any that has been discussed here. They call it the Evansville group and it takes an entirely different freight rate. I might mention in that connection that the distance from our Boonville operation to this territory could be greatly shortened by a route through Evansville, which is denied us because the carriers want to protect the Evansville gateway on eastern freight rates. So that our coal travels a longer distance than necessary to reach the markets for carrier reasons, and [fol. 2554] we maybe have been penalized for that.

Q. Now, Evansville takes a higher rate than Boonville, does it not?

A. It does.

Q. Yet by any route the distance from Boonville is greater than that from Evansville, is it not?

A. Will you say that again?

Q. Via any possible route, either via Huntingburg or Evansville, the distance is greater from Boonville than the distance from Evansville?

A. That is correct, but that is entirely a rate adjusting matter. Distance has nothing to do with that situation.

Q. Now, taking your Northern Illinois group mine at Wilmington, would you have any objection if mines in the Danville group took lower rates than your Wilmington mine to Rockford, to be specific?

A. I don't think the Danville rate should be lower than the Wilmington rate, no.

Q. Well, why not, may I ask you that question?

A. Because I don't think Rockford ever has been or ever will be a natural market for Danville coal, and of course, the distance does enter into that too. It is probably a greater distance from Danville.

Q. I take it, then, if Rockford wouldn't be a natural market for Danville coal, it wouldn't be a natural market [fol. 2555] for Brazil-Clinton coal?

A. Just because it hasn't ever had the quality of coal that seemed to fit that market. So very little consideration has ever been given, so far as I know, to the Danville rates to Rockford.

Q. Do you think the rates from mine in the Springfield group should be lower than the rates from the Wilmington mine to Rockford?

A. No.

Q. For what reason?

A. I think it would be a very improper adjustment to move coal right through one coal field to short haul destinations with a lower rate.

Q. Then the same would be true of Southern Illinois, Belleville and DuQuoin, would it not?

A. Yes.

Q. Because they are a greater distance, you don't think they should have lower rates than the Wilmington mine?

A. Certainly not, because the rates were not constructed that way. It is a very fortunate thing for the Illinois freight adjustments that the better coals lie greater distances. If it were not for that fact, you would see an entirely different economic situation in Illinois. For example, if the Wilmington mine were 100 miles further away from the markets that we are discussing, it never would

have been opened because it would not have been econom-
[fol. 2556] ically sound.

Mr. Biaett: That is all I have. Thank you.
Exam. Trezise: Any further questions?
Mr. Stadell: I have a few questions.
Exam. Trezise: Mr. Stadell.

By Mr. Stadell:

Q. Approximately how far is your Northern Illinois mine at Wilmington from Chicago?

A. 50 miles.

Q. And Chicago has generally been referred to, has it not, as the greatest coal market in the world?

A. Yes.

Q. In reply to a question of Mr. Biaett you stated that normally your mines would receive from 75 cents to $1.25, was it, per ton more?

A. 75 cents to $1.00 more for truck coal.

Q. That is, they would receive 75 cents to $1.00 per ton more for the coal that they would sell at the mines to trucks, that was to be hauled by the trucks to a consumer at Rockford or some other point, for example, than they would receive for the coal that they shipped by rail from the same mine in Northern Illinois to Rockford for a consumer there or a dealer?

A. That is correct.

Q. And in connection with the sale of coal to the trucks, you would receive the money immediately at the time you loaded the coal in the truck?

[fol. 2557] A. That is right.

Q. Whereas in the case of coal shipped by your Northern Illinois mine to Rockford, Freeport, or some other point, you would have to ship the coal and then invoice the customer and have to wait for the money?

A. Our terms are net cash, 20th day of the month following shipment.

Q. But they don't always pay it on the 20th day of the month?

A. They have been under the Coal Act.

Q. But the Coal Act is now no longer in existence, is that right?

A. I am glad to say they are still paying, Mr. Stadell.

Q. Now, you stated that the mine owned and operated by your Sunlight Coal Company was the only mine in the Boonville, Indiana group?

A. The only large mine.

Q. Approximately what is the annual production of the Sunlight mine, we will say, in 1940?

A. In 1940 it was approximately a million tons. It is producing at a larger rate now, higher rate.

Q. I will ask you this, isn't it true there is also a mine in the Boonville, Indiana group known as the Mariah Hill Super Block No. 1 that produces approximately 80,000, 90,000 or 100,000 tons of coal annually?

A. It did produce somewhere around there, but it is [fol. 2558] producing a great deal less now, and the bulk of it is moving by truck.

Q. Isn't it true there is a mine Star Hill No. 1 owned by the Sternberg Coal Corporation, in the Boonville group?

A. There was, but if that mine is producing any tonnage at present, it is very small.

Q. Wouldn't the production be approximately 200,000 tons annually?

A. It would have been, but I don't believe they are producing that now.

Q. You don't know what the production is?

A. I haven't been there recently, but I will say it is practically no factor in the competitive situation.

Q. You don't know what their production is now?

A. I don't know that they are producing anything. There was also a Pigeon Creek mine, and that is closed now and we now own the company.

Q. How about the Super 5, Incorporated, mine?

A. That isn't the Mariah Hill mine?

Q. No, it is a different mine.

A. I don't know anything about that. I suspect it is a truck mine.

Q. You don't know whether they are shipping coal via rail at the present time?

A. I do not know. If it is, it is a negligible amount.

Q. Now, I believe you stated that your Tecumseh mine [fol. 2559] was opened in 1940?

A. That is correct, in March, 1940.

Q. And at the time that mine was opened your company asked the railroads to establish rates on the Princeton group basis?

A. Well, yes, before it started producing we asked them to do that and they did, and they docketed that proposal with the Illinois-Indiana Coal & Coke Committee, and it was disapproved, was it not? I am not familiar with what went on in the Illinois-Indiana Coal & Coke Committee deliberations. I do know this, I do know that they published the Boonville rates, which are 3 cents higher than the Princeton-Ayrshire, but before the mine went into operation they withdrew them and put in the Princeton-Ayrshire rate, and all the coal has been shipped on that rate basis.

Q. When was the first coal shipped from the Tecumseh mine?

A. In March, 1940, to the best of my recollection.

Q. And you don't know when the rates from that mine were established, do you?

A. Not the date. I know they were in effect then when the mine started shipping, the Princeton-Ayrshire rates were in effect.

Q. Now, isn't it true that the Princeton-Ayrshire basis is not in effect from your Tecumseh mine to all destinations, but only to destinations on certain railroads, such as the New York Central, the Wabash, and possibly one or two [fol. 2560] other railroads, and that to points on other railroads the rates are on the Boonville basis?

A. I am not entirely familiar with that, Mr. Stadell. I know there may be possibly lots of places where we don't have rates, but I do know anywhere we have wanted to ship we have found the rate proper.

Q. Now, you said you were familiar and have been familiar for several years with the production of coal in the Indiana groups. Isn't it true that about 1930, the majority of the mines that were on the Boonville basis of rates were shifted to the Princeton basis of rates, leaving only your mines and these other mines that I have named as the Boonville group?

A. That is correct.

Q. And your Sunlight Coal Company mine and your Tecumseh mine are both located in the same county in Indiana, are they not, in Warrick?

A. That is correct. They are both in Warrick County.

Q. And none of the other mines in the Princeton group, except your Tecumseh mine, are in Warrick County?

A. There are no other mines in Warrick County.

Q. From what seam of coal are you producing your coal by your Sunlight and your Tecumseh mines?

A. It is the No. 5 Indiana seam.

Q. And that is generally the seam that is being operated in by the other mines in the Princeton district?

[fol. 2561] A. That is correct. There is some No. 7 and some No. 6 coal in there. We are producing some coal through our Sunlight tipple which goes right in with the No. 5, that is not No. 5. We don't know just what it is. But there are other seams in there, but the bulk of the production in there is No. 5 seam.

Q. Well, the largest mines from the standpoint of production in Indiana are located in the Princeton group, is that correct?

A. That is correct; the King station mine, the Enos Coal Company, the Ayrshire-Patoka's two mines, the Knox mine, they are all there. There is the Maumee Collieries Company.

Mr. Scott: Just to keep the record straight, are the Knox mines in the Princeton-Ayrshire or Linton-Sullivan district?

The Witness: In the Linton-Sullivan.

Mr. Scott: And the Maumee mines also are in the Linton-Sullivan district?

The Witness: That is correct.

By Mr. Stadell:

Q. Well, the mine of the Enos Coal Company is in the Princeton district?

A. Yes, sir.

Q. And it produces just a little less than two million tons annually—about one million eight hundred thousand tons?

A. No, it doesn't produce that much.

Q. Well, wasn't its production in 1942 just about one million eight hundred thousand tons?

[fol. 2562] A. It was shown in the record as that, but there are some other mines that produce on the A. W. & W. and move their coal through the Enos tipple. So I couldn't say that Enos actually produces that much.

Q. You didn't see the advertisement of the Enos Coal Company in the Chicago Journal of Commerce that they produced 1,800,000 tons of coal in 1942?

A. Yes, sir, I did.

Mr. Cardy: I object to that, asking about an advertisement, as to whether or not a certain coal company advertised.

Mr. Stadell: He said he saw the advertisement.

Mr. Cardy: Well, I move to strike out the answer that they produced 1,800,000 tons. An advertisement in the paper about tonnage might not be reliable.

The Witness: Well, it was in there, that that much tonnage moved through their tipples, but I don't recall just where the advertisement stated that Enos produced it.

By Mr. Stadell:

Q. Do you know of any reason, Mr. May, why your Sunlight mine should have a higher basis of rates to Northern Illinois or any of the northwest than mines in the Princeton group?

A. On the contrary, I think it should have the same rates.

Q. You think they should be on the same basis?

A. Yes, sir.

Mr. Stadell: That is all I have.

[fol. 2563] By Mr. Christiansen:

Q. I have one question: Mr. May, is it not a fact that each increase in rail transportation costs for short haul territory results in a wider distribution of coal by truck?

A. Yes.

Mr. Christiansen: That is all.

Redirect examination.

By Mr. Cardy:

Q. Did you state your investment in the Tecumseh and the Boonville mines?

A. No, I didn't.

Q. Can you state approximately what it is in each point?

A. Well, that is a pretty difficult question to answer, Mr. Cardy.

Q. Well, if you haven't the figures, all right.

A. I don't have the definite figures.

Q. Did I ask you whether or not Boonville shipped any tonnage to amount to anything to points in Illinois during the past few years?

A. Did you say Boonville?

Q. Yes.

Mr. Biaett: You refer to his mine?

Mr. Cardy: Yes.

The Witness: And he refers to the Sunlight mine. Our largest movement into this territory from Sunlight has been to Chicago; but to the others in 1942 we shipped 33 tons to [fol. 2564] Belvidere, 1,082 to DeKalb, 260 tons to Dixon, 375 to Rochelle, 53 tons to Moline.

By Mr. Cardy:

Q. Did you ship any to Rockford or Freeport?

A. No.

Q. Do you think that the present freight rate adjustment level of rates, had anything to do with the lack of movement from Boonville to this district, this destination territory?

A. Yes, it did have.

Mr. Stadell: Did you state what year those figures were for?

The Witness: 1942.

Mr. Cardy: Is there anything further that you desire to say concerning this so-called maladjustment of the Milwaukee and the effect it has on the Tecumseh and the Sunlight

rates to this territory, in the way of constructing differentials?

The Witness: Well, it has disrupted the differential adjustment and to restore it I suggested that it would be proper to base the Boonville and Ayrshire district, as well as the Linton-Sullivan district, on the Milwaukee rates, rather than on the former rates as they are now based.

By Mr. Cardy:

Q. In other words, one carrier having a lower rate, and where you have a differential adjustment, and not following the adjustment through on a normal basis, it just increases your rates relatively, does it not?

A. That is correct.

[fol. 2565] Mr. Cardy: That is all.

By Mr. Kaylor:

Q. What do you estimate the truck movement is from the Wilmington mine to destinations, the distance?

A. From our mine it is something over 100,000 tons a year.

Q. That is tonnage, but how far does this truck movement extend in miles?

A. Of course, at the present time it is more restricted than formerly, but I would say 75 miles was generally the limit, although I have known of greater movements. I have known of movements clear into Michigan from our mine.

Q. You said the operation of the mine, the product, was sold within 150 miles?

A. Generally, yes.

Q. You know, of course, there is no truck regulation of rates in Illinois?

A. I do not understand there is any, no.

Q. It is a fact there isn't any.

A. Sir?

Q. There is no rate regulation for truck coal haulers.

A. That is what I thought.

Q. So that they can haul this for most anything they can get *it* for their handling it.

A. That is correct, and it has always been our policy to keep the tonnage on the railroads wherever we could.

Q. Has that kind of competition increased during the [fol. 2566] last few years?

A. Oh, yes, very materially.

Q. Do you expect it to continue to increase substantially, the truck movements?

A. I am afraid it will.

Q. You also think if the rates were increased, it will increase it further?

A. It will, yes, sir.

Mr. Kaylor: That is all.

Exam. Trezise: Any further questions?

By Mr. Cardy:

Q. Mr. May, are you familiar with the truck movement from Mononk, Illinois, to Rockford?

A. I was familiar with it, but I don't know what is going on at the present time. I do not even know if the Mononk mine is operating. I am under the impression it isn't.

Q. Is Mononk further away from Rockford than your mine at Wilmington?

A. Yes, it is further.

Q. About how far?

A. Oh, I would have to make a guess. I would say roughly 30 miles.

Q. Do you know of any other truck movement from some of these more distant mines to Rockford or Freeport during the past years, say prior to the war, or any of those Northern Illinois points that might be a little farther than Wilmington?

[fol. 2567] A. About the only other truck movement I would know of would be Braidwood, which is only a few miles south of Wilmington, and that is the Wilmington mines, and from the Morris Coal Mining Company at Morris, and from the Osage Mining Company at Peru, I believe it is.

Q. And you would say they truck all of it about 75 miles from those mines?

A. Just about.

Mr. Cardy: That is all.

Recross examination.

By Mr. Biaett:

Q. Mr. May, these long haul truck movements that you referred to are generally, are they not, return movements by truckers who have hauled commodities into Chicago?

A. No. Now, the case where I mentioned it went to Michigan, that was a case where they hauled freight to St. Louis, and I believe they stopped in at the mine and loaded with coal back. But I will say this, that trucker wanted to make a deal with us to haul coal regularly over into Michigan.

Q. This coal that is trucked from your mine generally moves direct to consumers, does it not?

A. Oh, yes, generally. In some cases though dealers haul coal into their yard and then distribute it from there.

Q. And coal which moves from your mine by rail generally moves to dealers, does it not?

A. Generally to dealers and steam plants.

[fol. 2568] Q. The fact you receive 75 cents more on coal which you ship by trucks makes it attractive to the operators to move coal by truck?

A. No, not in our case. We put that up as an arbitrary more to protect the rail movement than to encourage the truck movement.

Q. In other words, you lose a dollar a ton on coal in order to encourage the rail movement?

A. That is right.

Mr. Biaett: That is all.

Exam. Trezise: Is that true now?

The Witness: It is true, Mr. Examiner, as true as anything that has been said in this hearing.

Exam. Trezise: Now, in making your deliveries to the trucks, does it entail any more expense than making the delivery to the rails?

The Witness: No more expense except investment in equipment to load trucks. Now, one of the reasons that our truck movement is not heavier is that we have not provided the equipment at the mine to serve the trucks. We have never solicited a single truck movement, and we put that arbitrary on largely to protect the dealer who has an investment in equipment and serves the domestic consumer a good deal better than the truckers can do it. We have in mind further that we sell large quantities of coal to the railroads, and we feel they are entitled to some [fol. 2569] reciprocity in the way of commercial tonnage for that. So when I say we lose money by shipping by rail, it is correct.

I made an investigation a couple or three years ago of this territory adjacent to the mine where we were moving some 100,000 tons of coal a year, and it showed very clearly that we could move from 150,000 to 300,000 more by truck without any greater effort. All we would have to do would be to provide the bins and the roads.

Mr. Biaett: The roads?

The Witness: Yes, the roads into the bins, if you get what I mean. We have to have roads in the mines for the trucks to come in on. At present they all have to load on one road. As a result, when the domestic demand is heavy, those trucks have a good deal of difficulty getting up to the loading facilities to get a load of coal. Some of them come down in the winter at night, the night before, and sleep in their cab, so they can get a load out and get out in the morning.

Exam. Trezise: Any further questions?

By Mr. Cardy:

Q. Mr. May, assuming you fix the same rates for truckers as you do to your rail customers at Wilmington, and assuming you had good roads, what would happen as far as you are concerned?

A. The rail movement would decrease by the amount that the trucks could haul out.

[fol. 2570] Mr. Cardy: That is all.

By Exam. Trezise:

Q. Mr. May, you do not move much coal eastbound, do you, Ohio?

A. We don't move any, Mr. Examiner.

Q. How much do you move southbound to Kentucky?

A. Nothing. Our coal does not move south of the Ohio river.

Q. Is it a fact that your market, if any, is either in Illinois or through Illinois principally to other destinations?

A. That is correct.

Q. Would you think that the reason the groups over there in Indiana are crowded together in the way they are, as compared with the Illinois group, might have been brought about in order to market Indiana coal in more or less Illinois territory?

A. The rates were adjusted to enable the Indiana coal to move into Illinois territory, yes.

Q. I mean this, that the differentials between the Illinois groups for 150, 180 and 190 miles are from 50 cents upward. Whereas the difference between the rates to Rockford, Illinois, from the Brazil-Clinton and the Boonville group is 160 miles and the difference in the rates is 15 cents only.

A. That is correct.

Q. You say that you think, for example, that you should not pay more from your Wilmington mine going to the so-called suspended points than the Fulton-Peoria group, would you say that?

[fol. 2571] A. Yes, I would say that.

Q. Is that due to the fact that one exhibit shows here that the distance from Wilmington, Illinois, as compared with Fulton County, to the representative suspended points is 66 miles, that is, 66 miles greater from Fulton-Peoria, and the rate is 29 cents greater from Fulton-Peoria than from

Wilmington to these representative suspended points? Do you think that that situation is correct?

A. We do.

Q. In principle?

A. In principle, yes.

Q. Now, when you come over here to Indiana, with your Boonville group, going to one of the suspended points, Forreston, the rate from Southern Illinois is 5 cents greater than from Boonville and the distance though from Southern Illinois is 78 miles less than from Boonville; that you think is all right?

A. I don't think that that adjustment will move a great deal of Indiana coal, but I think it is perfectly proper.

Q. It is proper to have that situation over there, but not proper to have it in Illinois?

A. It depends on the basis for making the rates. It might be perfectly proper.

Q. All right, we will go to DeKalb, Illinois, and we will go from Southern Illinois—this is not a glaring example—[fol. 2572] but there is a rate of $2.00. The rate from Boonville, according to Exhibit 23, page 4, the rate is 1 cent less from Boonville than from Southern Illinois, but the distance from Southern Illinois is 34 miles less. Without going into detail, we will take on the next page, page 3 of the same exhibit, Byron. At Byron, Illinois, a similar situation exists. Now, with that in mind, would you say that such a situation might be the cause of some of the dissatisfied situations that have been explained here?

A. They might be looking at it only from the standpoint of mileage, but these rates were not constructed with mileage as the main factor. It is an adjustment that has grown up out of commercial conditions through many years of adjusting and readjusting, and while mileage is a factor in figuring or making freight rates, it is not necessarily the predominating factor that should be considered.

Q. Doesn't it depend greatly upon the direction the shipments are moving, whether or not the sacredness of these group relations should be determined?

A. It does. The direction of movement has a great deal of bearing on that.

Q. Well, from the Belleville district, for example, as compared with the Fulton-Peoria group, Belleville takes a differential over Fulton-Peoria going to this affected territory, you know that?

[fol. 2573] A. Yes.

Q. Well, in going to Missouri, Belleville doesn't take a differential over Fulton-Peoria going to Missouri destinations?

A. Missouri is not in a differential territory, as far as Belleville and Fulton County are concerned. There is and could be no movement from Fulton County, so the measure of the rate would be entirely immaterial, because there is no movement.

Q. So the farther distant group ordinarily, anyhow, with the one exception that has been pointed out here, or possibly two, are the only instances that you know where distance is disregarded with respect to the rate from groups, is that true? Can you point out any other instance of that kind?

A. Oh, many, yes. Take the Springfield district to Missouri versus the Belleville district. You have mines in the Springfield district that have the same rates as Belleville into Missouri, and they have the same Springfield rates into Chicago. Now, certainly those were not figured on distance.

Q. They have the same rates, but do they have rates that are 5 cents, 10 cents or 15 cents lower where distance has been disregarded? You say they take the same rates.

A. Well, the same general basis. There may be variations at individual destinations.

Q. Well then, do you think that much of the dissatisfaction here could be eliminated if distance were given more [fol. 2574] respect in this case by giving the Boonville group, for example, only the same rates as groups in Illinois that have a, well, say a less distance, for example, Southern Illinois?

A. Well, in that case I would say that if distance is to be considered a factor from Boonville it should also be considered a factor from each Southern Illinois mine of the same or greater distance. I don't just see how you could apply

strictly a mileage scale to bring about an adjustment that would be satisfactory to everybody, because these freight rates have not been built up on a mileage scale.

Q. Who in the world in this case ever dreamed of putting in any mileage scales as a proposition here in the canons of rate making? Who suggested it in this case? Have you heard the testimony? I haven't heard anyone suggest that we have mileage scales. Now, if we are going to do that, we are going to do it one way or the other, it seems to me, if we are ever to solve the problem. We are either going to ignore distance entirely and give the whole state of Indiana the same rate and possibly the whole state of Illinois the same rate. Now, would that remove the difficulty here?

A. No, sir. You can't ignore mileage entirely, nor can you give it 100 per cent value. We discovered that in the evaluating of coals delivered at the markets, under the pricing required by the Duffey Act, where it was necessary to make arbitrary adjustments to enable the different coals [fol. 2575] to compete, and that is just what has happened in the building up of this rate structure you have today. If you were to go to a strictly mileage scale, you would have to go to each individual mine and you would have a different freight rate from every mine in Illinois, Indiana and West Kentucky to every destination, because I don't think there is any case where they are identical, and that would certainly upset the economic distribution of coal.

Q. Do you mean the work that the boys have done here in calculating these average distances from the groups should be merely thrown out the window, and your idea of taking mileage, strictly mileage rates should apply, which you have suggested?

A. Oh, I haven't suggested that, Mr. Examiner.

Q. I didn't hear anybody else mention it but you.

A. Oh, I didn't suggest anything like that. I suggested quite to the contrary.

Mr. Cardy: Mr. Examiner, I think I can straighten out that thought.

Exam. Trezise: Well, I would like to straighten out one question and I am not going to ask any more. Do you think that groups that are nearer to the destination should have higher rates than the farther distant groups, which distant

groups have lower rates than the nearer distant groups? Now, just say yes or no, and if you want to explain it, go ahead.

The Witness: No. I don't think any explanation would [fol. 2576] be enlightening.

Exam. Trezise: All right, Mr. Cardy.

Mr. Cardy: Well, I thought that Mr. May conveyed the idea that by reason of the fact the Boonville group is a very small group and that the Southern Illinois is a large group, and when you get an average from each of those groups it is a very serious question whether or not the average distance in testing the reasonableness of the rate is proper.

Mr. Stadell: I object, Mr. Examiner. He has asked him the same question ten times.

Mr. Cardy: It is not the fault with the mileages, using the average mileages. It is brought about by a difference in group adjustment. In other words, we have large groups in Illinois and small groups in Indiana, and you have got to measure like with like.

Mr. Stadell: I object to him first leading the witness and telling him what the answer is and asking him to say, yes, and secondly, the question is repetitious. It has been asked fifteen times here.

Exam. Trezise: Now, just a minute, may we go off the record.

Mr. Cardy: I want to thoroughly understand this, and of course, Mr. May never suggested a mileage scale, but I say when you are going to test these rates and use an average distance, that you should compare like with like, like [fol. 2577-2630] group with like group.

Mr. Stadell: Can't you make your argument in your brief?

Mr. Cardy: Well, yes. I got it in here too, and I will put it in the brief.

Exam. Trezise: Do we have further questions?

Mr. Scott: Just one question, please.

Exam. Trezise: Mr. Scott.

By Mr. Scott:

Q. Mr. May, you have been asked questions with respect to Boonville, on the one hand, and Southern Illinois, on the other, and also with respect to Boonville, on the one hand, and Belleville, on the other, to the affected destination territory. Can you tell me whether or not your theory, from what you have said, whether I am correct in understanding your theory, that you cannot take one rate group and compare it with another in a large adjustment of this kind, but that all origin groups as a whole must be taken into consideration, or in other words, that if you compare the Boonville group with the Southern Illinois group you must likewise give consideration to the relationship between the Boonville group and the groups in Indiana to the north of it?

A. That is correct.

Mr. Scott: That is all, sir.

Exam. Trezise: If there are no further questions, you may be excused, and thank you, Mr. May.

(Witness excused.)

[fol. 2631] Harry A. Rozene, recalled in rebuttal:

Direct examination:

Mr. Stadell: We have some exhibits, Mr. Examiner, and a prepared statement which we want to distribute.

Exam. Trezise: The next exhibit will be No. 97.

Mr. Stadell: We will ask to have the exhibits marked off the record.

Exam. Trezise: All right.

(Exhibits 97 to 108, both inclusive, Witness Rozene, marked for identification.)

By Mr. Stadell:

Q. Will you please state your name?

A. Harry A. Rozene.

Q. Are you the same Harry A. Rozene who previously testified in these proceedings?

A. Yes, I am.

Q. When you were previously on the stand you were asked if you could relate or apply the criticisms which you made of the use of the Holmes and Hallowell scale for measuring the lawfulness of the rates involved to the use of that scale in the railroads' exhibits. Do you recall that question?

A. Yes, I do.

Q. What, if anything further, have you to say concerning that question and the answer which you gave?

A. My answer that I could not relate the criticisms which I made of the use of that scale to the use of such scale in the [fol. 2632] railroads' exhibits Nos. 3, 4, 11, and others in these proceedings, was obviously based upon a misunderstanding of the question asked, because that scale has been used in those exhibits for the purpose which I said it should not be used for, that is, it has been used to compare or measure the rates involved in these proceedings for short hauls in relation to those for long hauls.

To the extent that the Holmes and Hallowell scale has been used in the exhibits of the railroads or other parties in these proceedings for the purpose of measuring the comparative levels or lawfulness of the present or suspended rates for distances of 200 miles, for example, with those for distances of 350 or 400 miles, or from any two or more groups where the distances are not equal, the criticisms which I made fully apply and for the reasons stated, such comparisons, in my opinion, are without value.

As I previously stated, the Holmes and Hallowell scale could be used to compare the relationship between the rates from two or more groups from which the distance to a given destination was substantially the same, that is, where there was a variation of not more than 25 miles, for example, provided, of course, that the movement from both groups to such destination was through the same territory and was performed under substantially similar transportation conditions.

Q. During your previous testimony you were asked [fol. 2633] whether there are not five or six mines in the Southern Illinois group which could be operated but are not now operating and you replied, as I recall, that you did not know. Have you since made an investigation to determine whether there are any mines in that group which

could be operated and which are not being operated at the present time. If so, what did your investigation disclose?

A. I have made an investigation and have been unable to find any mines in the Southern Illinois group which could be put into operation under present conditions that are not now operating. The mines that are in operation in that group today are the same ones that have been operating for the past several years.

As I previously testified, however, such mines have been able to operate during the past several years before we entered the war but approximately half as many days as they could normally have operated had they had a market for the coal which they could have produced had they operated full time.

Q. You were asked by Mr. Wilkinson if it was your position that the Southern Illinois mines should have preferential rates to the Northern Illinois points involved in these proceedings because of the large losses which you testified they have suffered in the tonnages shipped by them to markets outside Illinois during the past several years. [fol. 2634] What, if anything further have you to say concerning that question?

A. We do not expect either the Illinois or Interstate Commerce Commission to approve or prescribe anything but lawful rates from the Southern Illinois or other Illinois groups, which we represent, to the Northern Illinois territory involved in these proceedings. By the same token, however, we insist that the Interstate Commerce Commission should not approve or prescribe the manifestly unlawful and preferential adjustment of rates from the Indiana mines, on the one hand, and the Illinois mines on the other, to such territory, which is sought by the Indiana mines, the Milwaukee Railroad, and the Southern Railway.

Mr. Wilkinson: Mr. Examiner, I move that the last sentence of that paragraph be stricken from the evidence, the designation "the manifestly unlawful and preferential adjustment of rates."

Mr. Stadell: We have no objection to correcting that sentence to read: "By the same token, however, we insist that the Interstate Commerce Commission should not approve or prescribe the adjustment of rates from the Indiana mines, on the one hand, and the Illinois mines on the other,

to such territory, which is sought by the Indiana mines, the Milwaukee Railroad, and the Southern Railway."

Exam. Trezise: All right.

The Witness: We also insist that neither the Interstate [fol. 2635] Commerce Commission nor the Illinois Commerce Commission should use the present relationships between the rates from the Indiana groups, on the one hand, and the Southern Illinois and other Illinois groups, on the other, to points in Wisconsin, Southeastern Minnesota, and Eastern Iowa, as a pattern for the relationship which should be established between the rates from the Indiana mines, on the one hand, and the Southern Illinois and other Illinois mines, on the other, to the Northern Illinois territory involved in these proceedings.

The testimony which I gave with respect to the large losses which have been suffered by the Southern Illinois mines during the past several years in the coal tonnages formerly shipped by them to points in Wisconsin, Minnesota, Iowa, South Dakota, Nebraska, Missouri, Michigan, and Indiana, was to show that such mines have to a great extent been pushed out of the markets in those states and back into Illinois, and that therefore the markets in Illinois are of much more importance to such mines today than they were several years ago.

By Mr. Stadell:

Q. Mr. Wilkinson asked you if you had not extended the line representing the northern boundary of the Southern Illinois group, which is shown on your Exhibit No. 20, too far north, and if there were any mines or tariff origin points located immediately south of such line so as to prevent it from being moved farther south. What, if anything, further, have you to say with respect to that matter?

[fol. 2636] A. The line representing the northern boundary of the Southern Illinois group, as shown on my map Exhibit No. 20, is correct. There is a mine located at Mason, Illinois, in the Southern Illinois group a short distance south of Mount Vernon and immediately south of the line which I have shown on my Exhibit No. 20, as representing the northern boundary of the Southern Illinois group. If this line were dropped any farther south it would

be south of this mine and would not correctly represent the northern boundary of that group.

Q. While we are discussing the boundaries of these groups, and remembering the argument of the Indiana producers that the Springfield group is the largest one in the midwestern coal field, what have you to say as to whether the boundaries of that group as shown on your Exhibit No. 20, might properly be changed?

A. By referring to my Exhibit No. 20, you will note that I have extended the northern boundary of the Springfield group clear up beyond Lincoln so as to include that point. I have also extended the boundary of such group a considerable distance south to include Edwardsville. Both Edwardsville and Lincoln are named as origin points in the railroads' tariffs. However, I have made an investigation and have found that there is no mine located at Lincoln, as the mine formerly located there has been closed down and abandoned. Nor is there any mine located north of the line [fol. 2637] of the Wabash from Springfield across to Decatur, Illinois. If Lincoln, Illinois, were eliminated, the northern boundary of the Springfield group would be dropped a considerable distance south and would extend straight across immediately above Springfield to Decatur. I have also found that the mine at Edwardsville in the southern portion of the Springfield group has been closed down and not operated for several years. Eliminating Edwardsville, the most southerly mine in the Springfield group would be that of the Mount Olive and Staunton Coal Company at Staunton, Illinois, which is approximately 17 miles north of Edwardsville, so that the line shown on my Exhibit No. 20, as representing the southern boundary of the Springfield group, should be moved approximately 17 miles north. The elimination of these two origin points at which no mines are located or in operation would very materially reduce the size of and area covered by the Springfield, Illinois group.

Mr. Scott has omitted the mileages and rates from the entire Evansville and so-called Bedford, Indiana groups from all of his exhibits, and has failed to include the mileages or rates from such groups to the representative suspended points in arriving at his average rates and mileages from the Indiana mines to such points, on the theory that while there are mines located in the Evansville and Bed-

ford, Indiana groups which are producing coal, such mines in his opinion do not ship coal to the Northern Illinois points [fol. 2638] here involved. As no coal whatever is being produced, and as none has been produced for a number of years at the origin points of Lincoln and Edwardsville in the Springfield, Illinois group, there is far more reason for excluding those points in determining the size of that group or in determining the average mileages from such group or from the Illinois groups as a whole to points in Northern Illinois, than there is for excluding the average mileages from the Evansville and Bedford, Indiana groups in arriving at the average mileages and average rates from the Indiana mines as a whole to such Northern Illinois points.

As shown in Section 8 of the railroads' Exhibit No. 4 in these proceedings, no coal whatever moved from the Centralia or Peoria, Illinois groups during either the last six months of 1941 or the first six months of 1942, and therefore, on Mr. Scott's theory, the rates and mileages from those two groups should also be excluded in arriving at the average rates and mileages from the Illinois mines as a whole to the Northern Illinois points involved.

Q. What, if anything, have you to say concerning the testimony of Mr. Scott that he objects to the use of the average distances over the shortest tariff routes for determining the lawfulness of the rates involved in these proceedings, because, in his opinion, such average mileages do not measure the minimum transportation service from the Illinois mines to such points?

[fol. 2639] A. Mr. Scott's position in this respect is surprising, in view of the fact that the mileages over the short tariff routes which he has used in computing his average short tariff route mileages from the Indiana mines to the Northern Illinois points involved do not represent the minimum transportation service from those mines to such points.

For example, the Pennsylvania Railroad serves 7 origin points in the Brazil-Clinton, Indiana group, namely, Brazil, Center Point, Seeleyville, Staunton, Stearleys, Terre Haute, and West Terre Haute, and three origin points in the Linton-Sullivan group, namely, Bicknell, Linton, and Templeton Mine 24. In arriving at the average short tariff route mileages shown in his exhibit from the Linton-Sullivan group to the Northern Illinois points involved, Mr. Scott

has used the mileage from the 3 origins named on the Pennsylvania in that group, via the Pennsylvania to Beehunter, Indiana, thence CMStP & P Railroad. From the 7 origin points named on the Pennsylvania Railroad in the Brazil-Clinton group he used the mileages over the Pennsylvania to Terre Haute, thence C.M.St.P.&P. In order that the Pennsylvania not be short-hauled on coal moving from these origin points on its line in the Brazil-Clinton and Linton-Sullivan groups to such Northern Illinois points, it is necessary for it to haul such coal to Chicago instead of merely to Beehunter or Terre Haute, and it is my understanding that is the route over which the coal from such origins to [fol. 2640] Northern Illinois points moves. My understanding on this point was confirmed by the testimony of the Milwaukee Railroad's operating witness in these proceedings.

If Mr. Scott had computed his average short tariff route mileages from these origins on the Pennsylvania in the Brazil-Clinton and Linton-Sullivan groups to the Northern Illinois points involved, via the route of the Pennsylvania to Chicago, thence Illinois Central or other railroad beyond, he would have obtained considerably greater average distances than those shown in his exhibits. For example, the average distance from origins on the Pennsylvania in the Linton-Sullivan group to Rockford via the route of the Pennsylvania to Beehunter, thence C. M. St. P. & P., which was used by Mr. Scott, is 303 miles, while the average distance from the same origins to Rockford via the route of the Pennsylvania to Chicago, thence Illincis Central, is 387 miles, or 84 miles longer.

The average distance from the Pennsylvania origins named in the Linton-Sullivan group to Freeport via the route of the Pennsylvania to Beehunter, thence C. M. St. P. & P., is 344 miles, while via the route of the Pennsylvania to Chicago, thence Illinois Central, the average distance from such origins to Freeport is 415 miles or 71 miles greater.

From the origins named on the Pennsylvania in the Brazil-Clinton group to Rockford the distance via the route of the Pennsylvania to Terre Haute, thence C. M. St. P. & [fols. 2641-2643] P., which was used by Mr. Scott in his exhibits, is 269 miles, while via the route of the Pennsylvania to Chicago, thence Illinois Central, the average dis-

tance from such origins to Rockford is 331 miles or 62 miles greater.

To Byron, Illinois, the average distance from the origins on the Pennsylvania in the Brazil-Clinton group is 266 miles via the route of the Pennsylvania to Terre Haute, thence C. M. St. P. & P., which was used by Mr. Scott in his exhibits, and 332 miles or 66 miles greater via the route of the Pennsylvania to Chicago, thence C. G. W.

If Mr. Scott had used the distances from the 7 origins named in the Brazil-Clinton group on the Pennsylvania, via the route of that road to Chicago thence the Illinois Central or C. G. W. beyond, in arriving at his average short tariff route distances from the Brazil-Clinton group to Rockford and Byron, his average short tariff route distances from the entire Brazil-Clinton group to such points would be 17 miles greater than those shown in his exhibits in these proceedings.

The average distance from the origins named on the Pennsylvania in the Linton-Sullivan group to Byron is 299 miles via the route of the Pennsylvania to Beehunter, thence C. M. St. P. & P., which was used by Mr. Scott in his exhibits, and it is 388 miles or 89 miles longer via the short tariff route, which must be used if the Pennsylvania is not to be short-hauled via that road to Chicago, thence C. G. W.

[fol. 2644] Exam. Trezise: Gentlemen, when you are ready, we will begin.

HARRY A. ROZENE, resumed:

Direct examination (Continued).

Exam. Trezise: Let us discuss this last thing off the record before we put it on the record.

(Discussion outside the record.)

Exam. Trezise: I think we will let this last statement go in as it is, and if you have any objection, why, you can argue that in your brief, Mr. Wilkinson.

Mr. Zoll: Do you want that to read "short or shortest tariff route"?

Exam. Trezise: Is that correct, Mr. Stadell?

Mr. Stadell: That is right. It will read now "89 miles longer than via the short or shortest tariff route, which must be used," and so on.

Exam. Trezise: All right, proceed.

The Witness: I also want to direct the Commission's attention to the fact that these so-called short tariff routes [fol. 2645] from the Indiana mines to points in Northern Illinois, which greatly short haul the origin carrier, that is, for example, those which I have referred to via the Pennsylvania from origins on its line in the Brazil-Clinton and Linton-Sullivan groups to Beehunter or Terre Haute, thence the C. M. St. P. & P. beyond, were established by the railroads serving the Indiana mines after the complaint was filed in Docket No. 25595, and it is obvious that such routes were established for the purpose of enabling such railroads and the Indiana mines to compute much shorter average short tariff route distances to use in comparison with those from the Southern Illinois and other Illinois groups than they could compute from the Indiana mines if they used the mileages over the short tariff routes over which the coal from such mines to such points actually moves.

Mr. Wilkinson: Mr. Examiner, I move to strike that portion of the sentence beginning with the words, "and it is obvious."

Exam. Trezise: I think that might be objectionable there. "it is obvious that such routes were established for the purpose of enabling such railroads," and so on. That is argument.

Mr. Stadell: We have no objection to striking it out.

Exam. Trezise: Strike that out.

Mr. Wilkinson: Strike out everything after the "Docket No. 25595."

[fol. 2646] Mr. Stadell: That is right.

Exam. Trezise: All right, strike it out.

Mr. Stadell: It is all right with me.

Exam. Trezise: To the bottom of the page, or does it go to the bottom of the page?

Mr. Wilkinson: Yes, it goes to the bottom of the page, that argument.

Exam. Trezise: All right, strike that out.

The Witness: The illustrations which I have given clearly indicate, in my opinion, that the average short tariff route distances contained in Mr. Scott's exhibits from the Indiana mines to the Northern Illinois points involved in these proceedings do not, as he would have the Commission believe, represent the minimum transportation service from such mines to such points. It is our position that the average shortest tariff route mileages shown in my exhibits from the Southern Illinois group to such points come as close or closer to representing the minimum transportation service from such mines to such points than do the average short tariff route distances shown in Mr. Scott's exhibits from the Indiana mines to such points.

By Mr. Stadell:

Q. Right there, Mr. Rozene, can you give us the average distance from the seven origin points on the Pennsylvania Railroad in the Brazil-Clinton group to Terre Haute, to Chicago, and to Beehunter, if the route from those origin points [fol. 2647] applies via Beehunter?

A. From the seven origin points in the Brazil-Clinton district located on the Pennsylvania the distance to Terre Haute is 12 miles. From the same points to Chicago it is 244 miles.

Q. And those distances are over the Pennsylvania in each instance?

A. Yes, sir.

Q. From those origins over the Pennsylvania to Terre Haute; then from those origins over the Pennsylvania to Chicago?

A. Yes, sir; and from the three mines in the Linton-Sullivan group located on the Pennsylvania the distance to Beehunter is 14 miles and to Chicago 300 miles.

Q. In other words, if the Pennsylvania hauled the coal from those seven mines or origin points on its line in the Brazil-Clinton group to Terre Haute, it would secure a haul of but 12 miles?

A. Yes, sir.

Q. But if it hauled the coal to Chicago it would secure a haul of 244 miles you stated?

A. Yes, sir.

Q. I believe you stated that Mr. Scott in his exhibits had included the distance from Templeton Mine No. 24, which is one of the three origins in the Linton-Sullivan district, in securing his average mileages. Isn't it true he indicated in his exhibits there was no mileage published from that [fol. 2648] mine and he did not include it?

A. He did not include it, yes, sir.

Q. Are there mileages published from that Templeton Mine No. 24 which could be used for securing the average distance from that point?

A. Yes, sir.

Q. Could you give us that tariff authority?

Mr. Wilkinson: And the date of publication, Mr. Rozene, while you are getting it.

The Witness: It is in the record.

Mr. Stadell: It is in the record?

The Witness: Yes. Mr. Biaett called his attention to it.

Mr. Scott: There was no date of publication given.

The Witness: I don't believe I have reference to that supplement with me. I left it in the office.

Mr. Stadell: Well, will you supply that?

The Witness: Yes, I will be very glad to do that.

By Mr. Stadell:

Q. You previously referred to the present relationship between the rates from the Southern Illinois group, on the one hand, and the Indiana groups on the other, to points in Minnesota, Iowa, and Wisconsin, which you stated should not be used as a basis for the relationship between rates from such groups to the Northern Illinois territory involved. Have you prepared an exhibit showing the differences in the average short tariff route distances from [fol. 2649] the Southern Illinois group, on the one hand, and the Indiana groups on the other, to the points referred to?

A. Yes, I have prepared such an exhibit, and it has been marked No. 97.

Q. Will you please explain what this exhibit shows?

A. Page 1 of this exhibit shows the average short tariff route mileages from the Southern Illinois group, on the one hand, and the Brazil-Clinton, Linton-Sullivan, Princeton Ayrshire, and Boonville Indiana groups, on the other, to 21 representative points in Minnesota, and the amount by which the average distance from the Southern Illinois group is longer or shorter than from each of the Indiana groups named.

Page 2 shows the same information from such groups to 28 individual representative points in Eastern Iowa.

Page 3 shows the same information to 21 representative points in Wisconsin, and Page 4 shows the same information with respect to the average short tariff route mileages from each of such groups to the 12 representative suspended Northern Illinois points used by the railroads and by ourselves and others in the rate and mileage exhibits in these proceedings.

Turning back to page 1 of Exhibit No. 97, it will be noted that the average distance from the Brazil-Clinton, Indiana group to the 21 representative Minnesota points shown is but 69 miles less than from the Southern Illinois group, and that the average short tariff route distances from the Lin-[fol. 2650] ton-Sullivan, Indiana group is but 44 miles less than from the Southern Illinois group. For a difference in average distance of 64 miles between the Illinois groups to destinations in Iowa, the Commission in the Midland Electric Case prescribed a differential of but 10 cents per ton.

To all of the 21 representative Minnesota points shown on page 1 of this exhibit, however, the present rates from the Brazil-Clinton, Indiana group are 30 cents per ton lower, and from the Linton-Sullivan group 20 cents per ton lower than the present rates from the Southern Illinois group.

Page 1 of this exhibit also shows that the average short tariff route mileage from the Princeton-Ayrshire, Indiana group to every one of the 21 Minnesota points shown exceeds the average short tariff route mileage from the Southern Illinois group by from 16 miles to 48 miles, and to all

of the 21 points the average distance from the Southern Illinois group is 30 miles less than from the Princeton-Ayrshire group, but the present rates to all of such Minnesota points from the Southern Illinois group are 13 cents per ton higher than from the Princeton-Ayrshire group.

From the Boonville, Indiana group, the average distance to the 21 Minnesota points shown exceeds those from the Southern Illinois group by 79 miles, but the rates from the Boonville group to all of such points are 10 cents per ton lower than from the Southern Illinois group. In other [fol. 2651] words, while the Brazil-Clinton group is accorded a 30 cent per ton lower rate to these Minnesota points than is the Southern Illinois group for an average distance of 69 miles less, the Southern Illinois group must pay a rate 10 cents per ton higher than the Boonville group, although its average distance is 79 miles less than from the Boonville group.

On page 2 of my Exhibit No. 97, it is shown that the average short tariff route distance from the Princeton-Ayrshire, Indiana group is 41 miles greater and from the Boonville, Indiana group 98 miles greater than from the Southern Illinois group to the 28 representative Iowa points shown, but I wish to point out that the present rates from the Southern Illinois group to such points, despite its much shorter mileage, is 13 cents per ton higher than from the Princeton-Ayrshire group and 10 cents per ton higher than from the Boonville group.

In other words, although an average of 41 miles more transportation service is performed by the railroads in hauling coal from the Princeton-Ayrshire group to the representative Iowa points shown, and 98 miles more transportation service is actually performed by them from the Boonville group than from the Southern Illinois group to such points, the present rates from the Princeton group to such points are 13 cents per ton lower, and from the Boonville group 10 cents per ton lower than from the Southern Illinois group, and it is this relationship which the Indiana producers and the Southern Railway want extended to [fol. 2652] points in Northern Illinois.

The average distance from the Brazil-Clinton group to the 21 Iowa points is but 60 miles less than from the Southern Illinois group, yet the rate from such Indiana group to such points is 30 cents per ton lower than from the Southern Illinois group. For a difference in average distance of 64 miles between the Illinois groups to Iowa, the Commission prescribed a differential of but 10 cents per ton in the Midland Electric Cases.

As shown on page 3 of this exhibit, the average short tariff route distance from the Princeton-Ayrshire, Indiana group is actually 20 miles longer and from the Boonville, Indiana group 70 miles longer than from the Southern Illinois group to all of the 70 representative points shown in Wisconsin, Southeastern Minnesota, and Eastern Iowa, but —and I wish to stress this unusual fact—the present rates from the Princeton group are 13 cents per ton lower, and from the Boonville group 10 cents per ton lower than from the Southern Illinois group. It is this relationship which utterly disregards mileages, transportation conditions, and every other transportation standard that the Indiana mines desire to have the Interstate and Illinois Commissions adopt in these proceedings.

It is our position that this rate adjustment, on its face, is unduly prejudicial to the Southern Illinois mines and [fol. 2653] unduly preferential of the mines in the Princeton, Boonville, and other Indiana groups, in violation of Section 3 of the Act, as that section of the Act was recently interpreted by the Commission in its decision in Northeast Kentucky Coal Bureau versus Chesapeake & Ohio Railroad Co., 201 ICC 165; 206 ICC 445; and being unduly prejudicial and unduly preferential, it obviously should not be used in any way in determining what the relationship between such Indiana groups, on the one hand, and the Southern Illinois or other Illinois groups, on the other, should be to points in Northern Illinois.

Mr. Wilkinson: Now, I move that that portion of the statement following the ICC decision be stricken as being purely argumentative.

Mr. Stadell: That may be argumentative, but it is so obvious, Mr. Examiner, from the facts that there can't

be any doubt about it. In other words, when transportation conditions are admittedly the same and they charge 10 or 13 cents lower rate from one group than from another group which *are* immediately adjacent, for 98 miles less transportation service, that is on its face manifestly unduly preferential and unduly prejudicial. That is a statement of his position in that regard.

Exam. Trezise: Let us take this off the record.

(Discussion outside the record.)

Mr. Stadell: Very well, let us change that sentence, beginning after the citation of the Commission's decision and [fol. 2654] ending with the 445. We will put a period there. Then we will say: "It is therefore our position that this rate relationship between the Indiana groups, on the one hand, and the Southern Illinois groups, on the other, should not be used in any way in determining what the relationship between such groups should be to points in Northern Illinois."

All right, proceed, Mr. Rozene.

Exam. Trezise: Does the reporter have that in mind now?

The Reporter: Yes.

The Witness: On page 4 I have shown a recapitulation of the average short tariff route distance from the Southern Illinois group, on the one hand, and the four Indiana groups named, on the other, to all of the 70 representative points in Minnesota, Iowa, and Wisconsin, and to the 12 representative Northern Illinois points.

It will be noted that the average short tariff route distances from the Brazil-Clinton, Indiana group to this entire territory, including Northern Illinois, Wisconsin, Southeastern Minnesota, and Eastern Iowa is but 81 miles less than from the Southern Illinois group, and the average distance from the Linton-Sullivan, Indiana group to such territory is but 52 miles less than from the Southern Illinois group.

Based upon the differentials prescribed by the Interstate Commerce Commission between the Illinois groups in the Midland Electric Case, and based upon the differentials pre-

[fol. 2655-2656] scribed by it in other cases, the differential between the Brazil-Clinton, Indiana group, on the one hand, and the Southern Illinois group on the other, to this entire Northern Illinois and Northwest territory should not be more than 15 cents per ton for the average difference in the short tariff route distances of 81 miles.

Mr. Wilkinson: I want to move that that be stricken unless the witness states that as his opinion. You stated it here as a bald fact. I say it is again argumentative.

Exam. Trezise: I think that everything the witness says is his opinion based upon his qualifications. I think I am right on that.

Mr. Wilkinson: Well, if it is taken that way, that that is merely an expression of the witness' opinion, all right.

Exam. Trezise: It is his opinion, and when he draws a conclusion of that kind, I believe it is the opinion of the witness based on his qualifications.

Mr. Wilkinson: All right, with that understanding, I withdraw the objection.

The Witness: This differential of 15 cents per ton for the longer average distance of 81 miles from the Southern Illinois group is shown to be fully justified and proper when measured by the differentials which the Indiana producers contend are proper to this entire Northwest territory, including Northern Illinois, between the Indiana groups themselves.

[fol. 2657-2658] Exam. Trezise: Mr. Hunter.

Mr. Hunter: Those rates to the entire Northwest territory you referred to are not involved in this proceeding.

Mr. Stadell: Mr. Scott brought them in, on a big map, showing the territory.

Exam. Trezise: Well, the Examiner will accept the statement as modified.

Mr. Kaylor: Off the record.

(Discussion outside the record.)

Exam. Trezise: We will accept that statement as it was modified by Mr. Stadell. Go ahead.

Mr. Wilkinson: Exception, please.

The Witness: For example, it will be noted from page 4 of my Exhibit No. 97 that the average short tariff route distance from the Princeton-Ayrshire, Indiana group to all of the 82 representative Illinois, Wisconsin, Minnesota and Iowa destinations is 69 miles longer than from the Linton-Sullivan group.

[fol. 2659] The Witness: For this difference in distance, the Indiana producers contend that a 7 cent differential is proper. The average distance from the Princeton-Ayrshire, Indiana group to such points is 98 miles longer than from the Brazil-Clinton, Indiana group. For this difference in distance, the Indiana producers contend that a 17 cent per ton differential is proper and lawful. It will also be found that the average distance from the Boonville group to such 82 points is 116 miles longer than from the Brazil-Clinton, Indiana group, and for this difference the Indiana producers contend that a 20 cent per ton differential is proper.

The differentials which I have named between the Indiana groups are already in effect for substantially the same differences in distances between those groups which I have given to the 70 representative points in Wisconsin, Iowa, and Minnesota, shown in my Exhibit No. 97.

Page 4 of this exhibit also shows that the average short tariff route distance from the Princeton-Ayrshire, Indiana group to all of the 82 representative points shown in Northern Illinois, Wisconsin, Iowa, and Minnesota, is actually 17 miles longer, and from the Boonville, Indiana group 64 miles longer than from the Southern Illinois group, yet the Indiana producers are contending in these proceedings [fol. 2660] that these substantially longer distances from the Princeton and Boonville groups than from the Southern Illinois group, which actually require that much additional transportation service from such Indiana groups than from the Southern Illinois group, should be not only totally disregarded, but that the Princeton-Ayrshire and Boonville groups should be accorded rates to such points

that are 13 cents per ton lower and 10 cents per ton lower respectively than are accorded the mines in the Southern Illinois group to such points.

Exam. Trezise: Isn't that analyzing what the Indiana and Illinois shippers are contending? Now, it seems to me you are supposed to give your facts. It seems to me that this sentence, "Yet the Indiana producers are contending in these proceedings," and so on, that that rightfully belongs in a brief. Now, if you are going to analyze their testimony, you may be analyzing everybody else's testimony in the case. Now, that is just plain argument, I think. This ought to go in a brief, Mr. Stadell.

Mr. Stadell: What portion are you referring to, Mr. Examiner?

Mr. Wilkinson: The whole paragraph, I would say.

Mr. Stadell: No, not what page 4 of the exhibit shows. That stays in.

Mr. Zoll: From, "yet the Indiana producers," and so on.

Mr. Stadell: All right, we are willing to strike that from [fol. 2661] the record, the words following, "yet the Indiana producers," Mr. Examiner, to the balance of the sentence.

Exam. Trezise: All right.

By Mr. Stadell:

Q. Where did you obtain the average short tariff route mileages shown in your Exhibit No. 97?

A. I obtained the average short tariff mileages from the Southern Illinois and Indiana groups to the 70 representative points shown in Wisconsin, Iowa, and Minnesota, from the appendix to the Commission's report in Docket No. 25595, 204 ICC 225, and I obtained the average short tariff route mileages from the Southern Illinois and Indiana groups to the 12 representative Northern Illinois points from the railroads' Exhibits Nos. 3 and 4 in these proceedings.

(Exhibit No. 97, Witness Rozene, received in evidence.)

Q. During the course of these hearings, the presiding Interstate Commerce Commission Examiner asked one of the

railroad witnesses if he knew of any rate in the adjustment involved here as low as the present rate of $2.10 per ton from the Southern Illinois group to Rockford for an average short tariff route distance of 369 miles. Do you recall that question, and if so, what, if anything, have you to say concerning it?

A. Yes, I do, and I have prepared an exhibit which has been marked No. 98, showing that most of the present rates from the Princeton and Boonville, Indiana groups to the [fol. 2662] points involved in Northern Illinois are lower than the present rate from the Southern Illinois group to Rockford, although the average distances from such groups are longer than from the Southern Illinois group to Rockford. I have also shown on this exhibit the rates from the Western Kentucky group to some of such Illinois points.

By Exam. Trezise:

Q. Now, these rates are all the present rates, is that true?
A. Yes, sir.
Q. You haven't mixed up the proposed rates with that?
A. No, these are all present rates.

Exam. Trezise: Thank you.

The Witness: From this exhibit it will be noted that rates as low as $2.01 per ton are maintained from the Princeton, Indiana group to the Northern Illinois points shown, for an average short tariff route distance of 396 miles, this rate being 9 cents per ton lower than from the Southern Illinois group to Rockford, and the average distance from the Princeton, Indiana group being 27 miles greater.

From the Boonville, Indiana group the present rates are as low as $2.04 per ton for an average distance of 431 miles, or 6 cents per ton lower than the present rate from the Southern Illinois group to Rockford, while the average distance from the Boonville group for which the $2.04 rate applies, is 62 miles longer than the average distance from [fol. 2663] the Southern Illinois group to Rockford.

I have also indicated the percentage that the rates shown from the Southern Illinois, Princeton, Boonville, and Western Kentucky groups are of the Holmes and Hallowell scale,

the Midland scale, and 23922 scale, as well as the ton-mile earnings that are produced by each of such rates for the average distance shown. The rates and short tariff route mileages which I have used in this exhibit are taken from the railroads' Exhibit No. 4 in these proceedings.

Under the proposal of the Indiana producers, many of the present low rates from the Princeton and Boonville, Indiana groups to the Northern Illinois points involved would be further reduced. Mines in the Western Kentucky group are served only by the Louisville and Nashville and Illinois Central Railroads, and the Commission found in its very recent decision in Docket No. 28629 Commonwealth of Kentucky versus Illinois Central Railroad, that 85 per cent of the coal from the Western Kentucky mines to Chicago moves over the Illinois Central.

By Mr. Stadell:

Q. Now, you made an investigation, did you not, at the time just shortly before the hearing in that case was held to determine what proportion of the total Western Kentucky tonnage to Chicago and the Northwest moved over the Illinois Central, and what proportion moved over the Louisville and Nashville?

A. That was shown in the evidence presented in those cases.

[Vol. 2664] Q. What proportion did you find moved over the Illinois Central?

A. I think it was considerably more than—what was the question there? Probably I did not understand you.

Q. What proportion did you find moved over the Illinois Central and what proportion over the Louisville and Nashville?

A. Well, that is shown very definitely in the evidence in that case, but I can't recall just what proportion moved to the Northwest.

Q. All right, you can check it up and we will furnish it later.

A. Yes. The average short tariff route distance from all mines on the Illinois Central in the Western Kentucky group to Chicago is 442.1 miles. It was also found in such

case that the weighted average haul from the Western Kentucky group to Chicago is 419 miles. In such case the Commission prescribed a maximum reasonable rate from the Western Kentucky group to Chicago of $2.30 per ton, which is 10 cents per ton lower than the present rate from such group to such point.

(Exhibit No. 98, Witness Rozene, received in evidence.)

Exam. Trezise: If that is a good place to stop, we will have a short recess, please.

(A recess was taken.)

Exam. Trezise: Proceed, gentlemen.

By Mr. Stadell:

Q. Have you any information with respect to the com- [fol. 2665] parative tonnages that have been shipped during any year from the Indiana mines, on the one hand, and the Illinois mines on the other, to any of the representative points in Northern Illinois?

A. Yes, I have prepared an exhibit which shows the number of tons of coal shipped from the Illinois and Indiana mines during the years 1936 and 1941, to Beloit, Wisconsin, and seven of the representative Northern Illinois points used by the railroads in their exhibits in these proceedings. This exhibit has been marked No. 99.

Q. Will you please explain what this exhibit shows and also why you used the years 1936 and 1941?

A. There is no source that I know of, except the railroads, from which information can be obtained showing the number of tons of coal shipped from the mines in Illinois or Indiana to any of the individual representative points in Northern Illinois or Wisconsin. However, in these proceedings, the railroads in their Exhibit No. 4, section 8, shows the number of tons of coal shipped to Beloit, Wisconsin, and seven of the representative Northern Illinois points from the Illinois and Indiana mines during the year 1941. Those are the figures which I have shown for 1941 on my Exhibit No. 99. The figures shown on this exhibit representing the tonnage shipped from the Illinois and Indiana mines to such points during 1936 were taken from Exhibit No. 10, which was presented by the petitioning and

[fol. 2666] respondent railroads in these proceedings, in I. & S. Docket No. 4360.

From my Exhibit No. 99 it will be noted that to Rockford, Illinois, for example, the tonnage from the Illinois mines increased but 68,072 tons or 32.7 per cent during the period 1936 to 1941, while the tonnage from the Indiana mines increased from 51,347 tons in 1936 to 211,561 tons in 1941, an increase of 160,214 tons or 312 per cent.

To Beloit, Wisconsin, and all of the seven representative Illinois points shown, the tonnage from the Illinois mines increased but 16,718 tons or 2.6 per cent during the period 1936 to 1941, while the tonnage from the Indiana mines increased 163,443 tons or 104.3 per cent.

Excluding Beloit, the increase from the Indiana mines was still greater, being 121.4 per cent as compared with an increase of but 4 per cent during the same period in the tonnage from the Illinois mines.

(Exhibit No. 99, Witness Rozene, received in evidence.)

Q. You were asked by Mr. Wilkinson whether a major portion of the 1,526,031 tons of coal which you stated was shipped from the Southern Illinois group to points in Indiana in 1923 was not shipped to Gary, Indiana, and you replied, as I recall, that you did not know. Have you made any further investigation with respect to this matter, and if so, what, if anything further, have you to say in regard to it?

[fol. 2667] A. The testimony which I presented showing that the Southern Illinois mines shipped 1,526,031 tons of coal to destinations in Indiana in 1923, and but 78,992 tons of coal to destinations in such state in 1941, was obtained from the reports of the Illinois-Indiana Coal and Coke Committee, which is the railroad committee that compiled such statistics. That report indicates that of this total tonnage from the Southern Illinois group to points in Indiana in 1923, 243,653 tons moved to South Bend, 10,574 tons moved to Indianapolis, 8,788 tons moved to Fort Wayne, 10,576 tons moved to what are described as the Gas Belt points in Indiana, and 1,252,440 tons moved to miscellaneous destinations in that state. I have been unable to ascertain whether any of this 1,252,440 tons moved to Gary. Our member companies have advised me, how-

ever, that this tonnage was shipped to numerous destinations in Indiana.

Q. Have you an exhibit showing the number of tons of coal shipped from each of the origin groups in Illinois and Indiana to destinations in Indiana during the years 1923 to 1941, inclusive?

A. Yes, I have such an exhibit and it has been marked No. 100.

Q. Will you please explain what this exhibit shows.

A. Page 1 of this exhibit shows the total number of tons of large coal and the total number of tons of fine coal, and of both large and fine coal from all of the Illinois mines to all destinations in Indiana, except those in the Chicago [fol. 2668] switching district, during the years 1923 to 1941, inclusive, and also the same information with respect to the large and fine coal tonnage and the total of both from the Southern Illinois group to such points.

While the Illinois mines shipped 2,826,440 tons of coal to Indiana in 1923, this had shrunk to but 230,477 tons in 1941, the 1941 tonnage being but 8.2 per cent of that in 1923. The number of tons shipped from the Southern Illinois group to points in Indiana in 1941 was but 5.2 per cent of the 1923 tonnage.

The same character of information is shown on page 1-A for the Fulton-Peoria and Central Illinois or Springfield, Illinois groups.

Page 1-B shows the same information for the Belleville, Danville, and DuQuoin, Illinois groups.

Page 2 shows the number of tons of coal shipped from all mines in Indiana to destinations in that state, except those in the Chicago switching district, during the years 1923 to 1941, both inclusive.

While the total tonnage from all of the Illinois mines to all points in Indiana, except those in the Chicago switching district, in 1941 was but 8.2 per cent of the 1923 tonnage, and from the Southern Illinois group but 5.2 per cent of the 1923 tonnage, the total tonnage from the Indiana mines to such points in 1941 was 77.8 per cent of the 1923 tonnage [fol. 2669] from such mines to such points.

On page 2-A the number of tons of large and fine coal and the total of both which were shipped during the years 1923 to 1941, inclusive, from the Princeton and Boonville, Indiana groups, and from both of those groups combined

to all points in Indiana, except those in the Chicago switching district, during the years 1923 to 1941 are shown. The 1941 tonnage from the Princeton group, for example, was 214.4 per cent of the tonnage from that group to such Indiana points in 1923.

(Exhibit No. 100, Witness Rozene, received in evidence.)

Q. Have you prepared an exhibit showing the total number of tons of large and fine coal shipped during the years 1923 to 1941, inclusive, from the various origin groups in Illinois and Indiana to other destinations?

A. Yes; I have prepared such an exhibit, and it has been marked No. 101.

Q. Will you please explain what this exhibit shows?

A. Pages 1, 1-A, and 1-B show the total number of tons of large coal, total number of tons of fine coal, and of both shipped from all Illinois mines and from each of the Illinois groups during the years 1923 to 1941, both inclusive, to all destinations. The same information is shown on pages 2 and 2-A with respect to the large and fine coal tonnage from the Indiana mines and from the Linton-Sullivan, Brazil-[fol. 2670] Clitnon, Princeton, and Boonville, Indiana groups, and from the Princeton and Boonville groups combined, to all destinations during the years 1923 to 1941.

Page 2-A shows that the 4,949,381 tons of coal shipped from the Princeton group in 1941 to all destinations was 39.6 per cent of the total coal shipped from all Indiana mines to all destinations, and that the 5,855,313 tons shipped from the Princeton and Boonville groups combined to all destinations during that year was 46.8 per cent or almost one half of the total number of tons shipped from all mines in Indiana to all destinations during that year.

On pages 3 and 3-A of this exhibit I have shown the number of tons of coal shipped from the Indiana mines and from each of the Indiana groups to all destinations, except those in Indiana, during each of the years 1923 to 1941, both inclusive.

Pages 4, 4-A, and 4-B show the number of tons of large coal, number of tons of fine coal, and of both, shipped from all of the Illinois mines and from each of the Illinois groups to all destinations in Illinois, except those in the Chicago switching district, during the years 1923 to 1941, both inclusive.

Page 4 indicates that the 1941 tonnage from the Southern Illinois group to all points in Illinois, except those in the Chicago switching district, was but 25 per cent of the total number of tons of coal shipped from all of the Illinois mines [fol. 2671] to such points during that year.

In 1941, the Southern Illinois mines shipped approximately 450,000 tons of coal to Alton, Illinois, which is included in the total shown on page 4 of this exhibit of 3,497,010 tons. This 450,000 tons of coal, however, was not consumed at any point in Illinois but was loaded into barges and was moved up the Mississippi River to such points as Red Wing, Lake City, Winona, St. Paul, and Minneapolis, Minnesota. Deducting this 450,000 tons from the 3,497,010 tons which is shown on page 4 of such exhibit as having been shipped from the Southern Illinois mines to points in Illinois in 1941, leaves a total of but 3,047,010 tons which was shipped from such mines to such points. This 3,047,010 tons was but 21.8 per cent of the total of 13,965,737 tons shipped from all Illinois mines in 1941 to all points in Illinois, except those in the Chicago switching district.

On pages 5 and 5-A of this exhibit I have shown the total number of tons of large coal and fine coal and of both shipped from all mines in Indiana and from the Linton-Sullivan, Brazil-Clinton, Princeton, and Boonville groups and from the Princeton and Boonville groups combined to all destinations in Illinois, except those in the Chicago switching district, and except East St. Louis, Illinois.

Pages 6 and 6-A of such exhibit show the total number of tons of large and fine coal shipped from the Indiana [fol. 2672] mines and from each of the four Indiana groups named and from the Princeton and Boonville, Indiana groups combined, to the Chicago switching district during the years 1923 to 1941, both inclusive.

The Indiana producers are contending in these proceedings that the mines in the Princeton and Boonville groups could not compete with the mines in the Linton-Sullivan and Brazil-Clinton groups at the Northern Illinois points involved if the differentials are greater than 17 cents per ton, Princeton over Brazil-Clinton, 7 cents per ton, Princeton over Linton-Sullivan, 20 cents per ton, Boonville over Brazil-Clinton, and 10 cents per ton, Boonville over Linton-Sullivan. In the Illinois-Indiana Coal Cases, 128 ICC 265,

the Interstate Commerce Commission prescribed rates from the Brazil-Clinton and Linton-Sullivan groups to Chicago, which increased the differentials then existing between those groups, on the one hand, and the Princeton and Boonville groups on the other, which were the same as I have just stated, 5 cents per ton. These increased differentials became effective in October, 1927.

Page 6-A of my Exhibit No. 101 shows that while the Princeton and Boonville, Indiana groups combined were shipping but 23.3 per cent of the total tonnage from the Indiana mines to the Chicago switching district in 1926, and but 26.8 per cent in 1927, the tonnage from those two groups to such district in 1941 was 48.3 per cent or almost [fol. 2673] one half of the total tonnage shipped from all mines in Indiana to such district.

On pages 7 and 7-A I have shown the number of tons of coal shipped from Indiana and from the four Indiana groups named to all destinations in Illinois, including those in the Chicago switching district, but excluding East St. Louis, Illinois, during the years 1923 to 1941, both inclusive. It will be noted from page 7 of such exhibit, that while the Brazil-Clinton group shipped 44.3 per cent of the total tonnage to such destinations from all mines in Indiana in 1923, it shipped but 19.3 per cent of the total Indiana tonnage to such destinations in 1941. Contrasted with this, the Princeton group in 1941 shipped 38 per cent of the total Indiana tonnage to such points and the Princeton and Boonville groups combined shipped 43.5 per cent of the total tonnage from all Indiana mines to such points.

Pages 8, 8-A, and 8-B show the total number of tons of coal shipped from all of the Illinois mines and from each of the Illinois groups to all destinations in Illinois, including those in the Chicago switching district, but excluding East St. Louis, Illinois, during the years 1923 to 1941, and the percentage that the tonnage from each of such groups was of the total from all of the Illinois mines. The 450,000 tons of coal which I previously mentioned as having been shipped from the Southern Illinois group to Alton for [fol. 2674] trans-shipment to points outside of Illinois by barge, is included in the 5,879,972 tons which is shown on page 8 as having been shipped from the Southern Illinois mines to destinations in Illinois, including those in the Chicago switching district, and such barge tonnage should

be deducted in order to arrive at the tonnage that was actually shipped from the Southern Illinois group to such Illinois points in 1941.

The Southern Illinois mines began to ship some coal to Alton and East St. Louis for trans-shipment beyond by barge to points outside of Illinois about 1938, but such tonnage was small during that year, and gradually increased during 1939, 1940, and 1941.

This exhibit shows that the proportion of the total Indiana tonnage shipped by the Brazil-Clinton or alleged Indiana base group has steadily declined since 1923, while the proportion of the total Indiana tonnage shipped by the Princeton and Princeton-Boonville groups combined has steadily increased during the same period, so that the bulk of the total Indiana coal is now shipped from the Princeton-Boonville group.

The Brazil-Clinton group now ships no greater, if as great a proportion of the total Indiana tonnage as the Fulton-Peoria group ships of the total tonnage from all of the Illinois mines.

As shown by Witness May's testimony, the mines with the largest production in Indiana are located in the Prince-[fol. 2675] ton group and virtually all of the mines which were in the Boonville group prior to 1930 have been shifted to the Princeton group for rate purposes, that is, the rates from such mines have been placed on the Princeton group basis.

In view of all of these changes, it is our opinion that the few remaining mines in the Boonville group should be consolidated with those in the Princeton group and the rates from such consolidated group, which from the standpoint of production and shipments will be the largest in Indiana, should be measured by the average distance from all mines in such group.

(Exhibit No. 101, Witness Rozene, received in evidence.)

Q. Did you hear the proposal advanced by Mr. Scott on behalf of the Coal Trade Association of Indiana during his testimony that if the proposed increased rates from the Southern Illinois and other Illinois groups to the Northern Illinois points involved were approved, the rates from the Brazil-Clinton, Linton-Sullivan, Princeton, and Boonville

groups should be made 30 cents, 20 cents, 13 cents, and 10 cents per ton lower, respectively, than from the Southern Illinois group to such points, and if so, what if anything have you to say concerning such proposal?

A. I wish to first point out that as the present rates from the Indiana mines to the Northern Illinois points involved are on a lower level than the rates from the Illinois mines to [fol. 2676] such points, that his proposal would result in a further maladjustment in the rates from the mines in such states to such points. In addition, his proposal would result in increases of from 5 to 15 cents per ton in the present rates from the Illinois mines to the Northern Illinois points involved and in further reductions in most of the present low rates from the Indiana mines to such points.

Q. Have you prepared an exhibit showing the present and suspended rates from the Springfield, Southern Illinois, and Indiana groups to the representative suspended points, the rates proposed by Mr. Scott from such groups to such points, and the amount of increase or reduction that would result from the establishment of the suspended rates from the Illinois mines and those proposed by Mr. Scott from the Indiana mines?

A. Yes, I have prepared such exhibit and it has been marked Exhibit No. 102. This exhibit shows the average short tariff route mileages, the present and suspended rates, and the rates proposed by Mr. Scott from the Indiana groups and from the Springfield and Southern Illinois groups to the representative Northern Illinois points used in the railroads' exhibits in these proceedings.

It also shows the amount of increase proposed from such groups by the rates under suspension and the amount of increase which would result from Mr. Scott's proposal in the rates from the Springfield and Southern Illinois groups, and the amount of reduction which would result in the [fol. 2677] rates from all of the Indiana groups.

To Amboy, Illinois, for example, which is the first destination shown, increases of 5 cents per ton are proposed in the rates from the two Illinois and the four Indiana groups shown. Under Mr. Scott's proposal, however, the increase from the Illinois mines would be established, but the present rates from all of the Indiana groups, except the Evansville group, would be further reduced 9 cents per ton. Similar information is shown in this exhibit to the other 11 North-

ern Illinois points named. The increases which this exhibit shows would be made in the present rates from the Illinois mines, and the reductions which would be made in the present rates from the Indiana mines to the 12 representative Northern Illinois points shown are typical of the increases which would be made in the present rates from the Illinois mines and of the reductions which would be made in the present rates from the Indiana mines to numerous other important points throughout the Northern portion of Illinois.

(Exhibit No. 102, Witness Rozene, received in evidence.)

Q. During your previous testimony you were asked by Mr. Vesey and Mr. Biaett if you would prepare and submit an exhibit showing the gradation or progression of the Holmes and Hallowell scale in comparison with the gradation or progression of other scales, including the 23922 [fol. 2678] scale, which have been prescribed by the Interstate Commerce Commission. Have you prepared such an exhibit?

A. Yes, and it has been marked No. 103.

Q. Will you please explain what this exhibit shows?

A. Beyond a word or two concerning its construction, I believe that it is self-explanatory. The rates for the various scales shown are in cents per ton, except where otherwise indicated. I have shown the rate under each of the scales named for 50 miles, for 100 miles, and for other distances up to the end of such scales, in multiples of 50 miles each, or in 50 mile blocks.

It will be noted that the rate under the Holmes and Hallowell scale for 50 miles is $1.02 per ton and for 100 miles, $1.45 per ton. The progression or increase in such scale for 100 miles is therefore 43 cents per ton or 42 per cent over the scale rate for 50 miles. The progression at 150 miles is 80 cents per ton or 78 per cent over the scale rate for 50 miles. At 250 miles, the progression is $1.53 per ton or 150 per cent over the rate for the first 50 miles.

Contrasted with this, the Eastern Class rate scale, which was prescribed for application in Illinois, is 30 per cent higher for 100 miles than for 50 miles, 53 per cent higher for 150 miles than for 50 miles, and 90 per cent higher for 250 miles than for 50 miles.

[fols. 2679-2696]. As indicated on page 2 of this exhibit, the Holmes and Hallowell scale at 450 miles is $2.69 per

ton or 263 per cent higher than the rate under such scale for 50 miles, while under the Eastern Class rate scale the rate at 450 miles is 146 per cent higher than at 50 miles.

The general increases authorized by the Interstate Commerce Commission in Ex Parte No. 123 have not been added to the basic scales shown in this exhibit.

* * * * * * *

(Exhibit No. 103, Witness Rozene, received in evidence.)

[fol. 2697] By Mr. Stadell:

Q. Have you prepared an exhibit showing the weighted average producing, administrative and selling cost per ton for all of the mines in Illinois and for all of the mines in Indiana during the year 1936 and subsequent years or other periods?

A. Yes, I have prepared such an exhibit from the reports [fol. 2698] of the Bituminous Coal Division, Department of the Interior, and it has been marked Exhibit No. 106.

Q. Will you please explain what this exhibit shows?

A. Columns D, E, and F, on page 1 of this exhibit, show the total number of tons of coal produced by all mines of all types during the year 1936 and the other years or portions of years shown, in District No. 10, which is Illinois, and in District No. 11, which is Indiana, and the weighted average producing cost and the weighted average producing, administrative, and selling cost per ton for all of the mines in Illinois and all of the mines in Indiana.

Columns G, H, I and J, show the same information for all hand-loading mines, that is, mines which are not mechanized, in District No. 10, Illinois, and District No. 11, Indiana, for the same years or portions of years which are shown.

Columns D, E, F and G, on page 2, show the same information for all of the machine-loaded or mechanized mines in Illinois and in Indiana, and Columns H, I, J and K show the same information for all of the strip mines in Illinois and in Indiana for the year or portions of years shown.

From columns E and F on page 1, it will be found that the weighted average cost of production in Indiana for all types of mines during the first six months of 1942 was 16.16 cents per ton less than for the Illinois mines, and that

the weighted average producing, administrative, and selling cost per ton for the Indiana mines was 14.14 cents per [fol. 2699] ton lower than for the Illinois mines. The same character of comparison can be made for any of the other years or portions of years shown.

On page 227 of its report in Illinois Coal Traffic Bureau versus Ahnapee & Western Railway Company, 204 ICC 225, the Commission stated that many of the mines in Indiana could not use mining machines; that is, that they could not be mechanized.

Mr. Wilkinson: I move that be stricken. The report will speak for itself, Mr. Examiner. He is telling us what is stated in the report of the Interstate Commerce Commission. Is he trying to rebut that report or trying to rebut some evidence that Indiana or somebody else put in here?

Mr. Stadell: Just change that, Mr. Rozene, to read as follows—strike out that line, "On page 227," and the next line and the next line, and start on the following line and say, "This exhibit shows that during the first six months of 1942 but 3 per cent of the total production in Indiana was produced by hand-loading or non-mechanized mines, while during the same period 10½ per cent of the total production in Illinois was produced by hand-loaded mines."

The Witness: This exhibit shows that during the first six months of 1942 but 3 per cent of the total production in Indiana was produced by hand-loading or non-mechanized mines, while during the same period 10½ per cent of the total production in Illinois was produced by hand-loaded mines. In addition, 59 per cent of the total coal produced [fol. 2700] in Indiana in the first six months of 1942 was from strip mines.

[fol. 2701] (Exhibit No. 106, Witness Rozene, received in evidence.)

Mr. Wilkinson: Well, when I agree with you that the tonnage figures, these cost figures, and the hand-loading figures, I have seen reports in the Coal Division. The percentages are worked out by Mr. Stadell, I believe. I don't recall seeing those in the reports. Is that a correct statement, Mr. Stadell, that you supplied the percentages?

Mr. Stadell: As shown in this exhibit, you mean?

Mr. Wilkinson: Yes.

Mr. Kaylor: Well, he got that right off the exhibit, I presume, the same as the other.

Mr. Stadell: It is just a matter of computing here what percentage one figure is of another. It is shown on the face of the exhibit.

Exam. Trezise: We will accept your mathematics until they prove to be wrong.

[fols. 2702-2704] By Mr. Stadell:

Q. There has been considerable discussion in these proceedings by Mr. Scott and Mr. Christiansen with respect to the alleged differentials which were established by the so-called Blue Book Adjustment on July 19, 1925, and of the disruption of the differentials between the Southern Illinois and other Illinois groups, on the one hand, and the Indiana groups, for example, on the other, to the Northern Illinois points involved since that time. What, if anything, have you to say concerning that matter?

A. The differences between the present rates from the Southern Illinois group, on the one hand, for example, and the Indiana groups, on the other, or from the Southern Illinois group, on the one hand, and the Fulton-Peoria group on the other, to points in Northern Illinois or Southern Wisconsin, are not the same as were the differentials in effect between such groups to such points prior to July 19, 1925, when the so-called Blue Book Adjustment became effective, nor are they the same as were in effect prior to the general rate increases in 1920.

[fol. 2705] By Mr. Stadell:

Q. Have you prepared an exhibit showing the rates which were in effect prior to the general increases in Ex Parte No. 74 on August 25, 1920, and the rates which became effective by virtue of the so-called Blue Book Adjustment on July 19, 1925, from the Southern Illinois, Princeton-Ayrshire, Brazil-Clinton, and Linton-Sullivan, Indiana groups to the 12 representative suspended Northern Illinois points and the 14 representative comparative points, and the differences between the rates to such points from the Southern Illinois group, on the one hand, and such Indiana groups

on the other, on August 25, 1920, July 19, 1925, at the present time, and as proposed by the suspended rates?

A. Yes, I have prepared such an exhibit and it has been marked No. 107.

Q. Will you please explain what this exhibit shows?

A. In column B on page 1 of this exhibit, the names of the 12 representative suspended Northern Illinois points are shown. In columns C and D I have shown the rates in effect to such points from the Southern Illinois group on August 25, 1920, and July 19, 1925—August 25, 1920, being the day before the general percentage rate increases authorized in Ex Parte 74 became effective.

In columns E to J, inclusive, I have shown the same information with respect to the rates from the three Indiana [fol. 2706] groups named to such points. In columns K to N I have shown the amount by which the rates from the Southern Illinois and the Indiana groups on July 19, 1925, were increased over the rates in effect from such groups to the 12 points shown, on August 25, 1920.

Columns K to N, inclusive, show that the increases made on July 19, 1925, in the rates from the Southern Illinois group were in almost every case double, and in some cases almost triple the increases which were made in the rates from the three Indiana groups.

These substantially greater increases in the rates from the Southern Illinois group than from such Indiana groups, not only failed to restore the differentials which were in effect from such groups to such points on August 25, 1920, but substantially further disrupted and increased such differentials in favor of the Indiana groups and against the Southern Illinois group.

Page 2 of this exhibit shows the rates in effect from the Southern Illinois and Princeton groups on August 25, 1920, and July 19, 1925, and also the present and suspended rates from such groups to the 12 representative suspended Northern Illinois points and the 14 representative comparative points.

Columns K to R, inclusive, show the differences between the rates from the Southern Illinois group, on the one hand, and the Princeton-Ayrshire, Indiana group on the other, on

[fol. 2707] August 25, 1920, on July 19, 1925, at the present time, and under the suspended adjustment.

To Belvidere, Byron, Forreston, Geneva, Rochelle, and Sterling, for example, the rates from the Princeton-Ayrshire group on August 25, 1920, reflected differentials of 7 cents per ton over the rates from the Southern Illinois group, while under the so-called Blue Book Adjustment, these differentials instead of being restored were wholly disrupted and the rates from the Princeton-Ayrshire group were made 18 cents per ton lower than the rates from the Southern Illinois group to Belvidere, Byron, Forreston, and Geneva, and 13 cents per ton lower to Rochelle and Sterling.

Substantially the same is true with respect to the rates to most of the other points shown.

(Exhibit No. 107, Witness Rozene, received in evidence.)

Q. Have you analyzed Witness Scott's Exhibits Nos. 61, 62 and 71, in which he shows the average distances from origin points on the Chicago and Eastern Illinois and New York Central Railroad only, in the Southern Illinois and three of the Indiana groups to the Northern Illinois points, selected by him, and compares the present and suspended rates from such groups by use of certain scales and the ton-mile earnings and car-mile earnings for the average distances which he shows, and if so, what if anything have you to say concerning such exhibits?

[fol. 2708] A. These exhibits were undoubtedly prepared and presented on the assumption that the C. & E. I. and N. Y. C. Railroads were the only two railroads serving the Southern Illinois, Brazil-Clinton, Linton-Sullivan, and Princeton, Indiana groups, that such railroads also serve the destinations involved in these proceedings, and therefore control the rates from such groups to such points. This is not true, however. Neither the C. & E. I. nor the N. Y. C. serve any of the Northern Illinois destinations involved. Coal traffic originated by them in either the Indiana or Illinois groups named must be turned over to an intermediate or to the destination carriers that serve the points in Northern Illinois, such as the I. C. Railroad, C. & N. W. Railway, C. M. St. P. & P. Railroad, C. G. W. Railroad, and

so forth. Furthermore, the delivering carriers would be the same on both the Illinois and Indiana coal whether it originated on the C. & E. I., N. Y. C. or some of the other numerous railroads serving the Illinois and Indiana mines.

The C. & E. I. is of no importance so far as the coal tonnage from the Southern Illinois group is concerned, as it originated but 1.4 per cent of the total tonnage shipped from all mines on all railroads in that group to all destinations in 1941, as illustrative. The N. Y. C. serves but a few mines in the extreme Eastern portion of the Southern Illinois group, and a part of these mines is also served by the I. C. Railroad. The I. C. Railroad is the only railroad which serves some of the destination points involved, such [fol. 2709] as Rockford and Freeport, and also mines in both the Southern Illinois and Indiana groups, as it serves important mines in both the Linton-Sullivan and Southern Illinois groups. From the standpoint of total tonnage originated, it is the most important carrier from the Southern Illinois group, and Mr. Scott in his testimony stated that it was an important carrier in so far as the Linton-Sullivan group is concerned, and would be much more important in the future.

However, he has not shown the average mileage over the short tariff route of the Illinois Central from the origins on mines on its line in the Linton-Sullivan, Indiana and Southern Illinois groups to any of the Northern Illinois points shown in his Exhibits 61, 62, and 71. Had he done so and used such average mileages to compare the present and suspended rates from the Linton-Sullivan, Indiana group, on the one hand, and the Southern Illinois group on the other, his Exhibits Nos. 61, 62, and 71 would show that the present and suspended rates from the Southern Illinois group are on a substantially higher level than are the present or suspended rates from the Linton-Sullivan group.

His Exhibit 41 shows that the average short tariff route mileage from origins on the Illinois Central in the Linton-Sullivan group to Byron, Illinois, is 312.7 miles, and from origins on the I. C. in the Southern Illinois group as shown in Exhibit No. 42 is 326.5 miles. For these average distances the present rate of $1.95 from the Linton-Sullivan [fol. 2710] group to Byron is but 83.7 per cent of the

23922 scale, while the present rate from the Southern Illinois group is 87.1 per cent of that scale. For such average distances the suspended rate from the Linton-Sullivan group to Byron is 88 per cent and from the Southern Illinois group 91.3 per cent of the 23922 scale. Based on such average mileages, the present and suspended rates from the Linton-Sullivan group to Byron are 67.2 and 70.7 per cent respectively of the Midland scale, and the present and suspended rates from the Southern Illinois group to such point are 69.8 per cent and 73.1 per cent respectively of such scale.

To Dixon, Illinois, the short tariff route distance from origins or mines on the Illinois Central in the Linton-Sullivan group is 314 miles and from origins or mines on that road in the Southern Illinois group but 303.8 miles or approximately 10 miles less. Based on these average short tariff route distances, the present and suspended rates of $1.89 and $1.94 per ton respectively, from the Linton-Sullivan group to Dixon are 81.1 and 83.3 per cent, respectively, of the 23922 scale, while the present and suspended rates of $2.00 and $2.05 per ton respectively, from the Southern Illinois group to Dixon are 85.8 and 88 per cent, respectively, of that scale.

To Rockford, Illinois, the average short tariff route distance from all mines or origins in the Linton-Sullivan group on the Illinois Central Railroad is 352.7 miles and from all [fol. 2711] mines or origins on that road in the Southern Illinois group 329.2 miles or 23½ miles less. Based on these average short tariff route distances, the present and suspended rates of $1.90 and $2.05 per ton from the Linton-Sullivan group to Rockford are 76.3 and 82.3 per cent, respectively, of the 23922 scale, and 60.9 and 65.7 per cent, respectively, of the Midland scale, while the present and suspended rates of $2.10 and $2.25 per ton from the Southern Illinois group to Rockford are 87.1 and 93.4 per cent, respectively of the 23922 scale, and 69.8 and 74.8 per cent, respectively, of the Midland scale.

To Freeport, the average short tariff route distance from all mines or origins on the Illinois Central Railroad in the Linton-Sullivan group is 324.7 miles and from all mines or origins on that road in the Southern Illinois group, 339.4 miles. Based upon these average short tariff route mileages, the present and suspended rates of $1.90

and $2.05 per ton from the Linton-Sullivan group to Freeport are 81.5 and 88 per cent, respectively of the 23922 scale, and 65.5 and 70.7 per cent, respectively, of the Midland scale, while the present and suspended rates of $2.10 and $2.25, respectively, from the Southern Illinois group to Freeport are 87.1 and 93.4 per cent, respectively, of the 23922 scale and 69.8 and 74.8 per cent respectively, of the Midland scale.

When the average short tariff route mileage of the only carrier which serves both the Indiana and Southern Illinois [fol. 2712] mines and the destination territory involved and which controls the rates from such mines to such territory is used, the present and suspended rates from the Indiana mines to the Northern Illinois points involved are shown to be on a substantially lower level than are the present or suspended rates from the Southern Illinois mines. In most of the illustrations which I gave even the present rates from the Southern Illinois mines are on a higher level than are the proposed increased rates from the Linton-Sullivan, Indiana group, the present rate from the Southern Illinois mines to Rockford, for example, being 87.1 per cent of the 23922 scale and the suspended rate from the Linton-Sullivan group being but 82.3 per cent of that scale.

Q. What, if anything, have you to say concerning Witness Scott's Exhibit No. 63?

A. This exhibit purports to show the distances over the longest and shortest short tariff routes from any origin point, irrespective of whether there is a mine at such point, in the Springfield, Southern Illinois, Brazil-Clinton, Linton-Sullivan, Princeton, and Boonville groups to Beloit, Wisconsin, and the Northern Illinois points selected by Mr. Scott for use in his exhibits. This exhibit was apparently presented to create the impression that the Southern Illinois group covers a wide area and is much larger in size than any of the four Indiana groups named. This is not true. As stated by the Commission in Illinois-Indiana [fol. 2713] Coal Cases, 128 ICC 265, the Southern Illinois group is a small and compact group. It is but approximately 30 by 40 miles in area. It covers portions of Franklin, Williamson, and Saline counties.

The Brazil-Clinton group in Indiana covers portions of Parke, Vermillion, Vigo, and Clay counties. The Linton-

Sullivan, Indiana group covers portions of Vigo, Clay, Sullivan, Greene, and Knox counties, and the Princeton, Indiana group covers portions of Knox, Davies, Gibson, Pike, and Warrick counties.

The preponderance of the coal produced in the Southern Illinois group comes from mines in Franklin county alone. The difference in distance between the mines or origin points on the various railroads in the Southern Illinois group ranges from 11.6 miles on the C. & E. I. to 35.3 miles on the I. C. Railroad. The maximum difference in distance between the mines or origin points on the various railroads serving the Linton-Sullivan group ranges from 9 miles between those on the N. Y. C. to 36.7 miles between those on the C. M. St. P. & P. The maximum difference in distance between the mines or origin points on the various railroads in the Princeton-Ayrshire group ranges from 9.3 miles between those on the A. W. & W. to 40.1 miles between those on the N. Y. C. The maximum difference in distance between the mines or origin points on the various railroads in the Brazil-Clinton group ranges from 18.8 between those on the N. Y. C. to 20.2 between those on the C. M. St. P. & P. [fol. 2714] In his Exhibit No. 63, Mr. Scott has shown some of the long circuitous short tariff routes from origins in the Southern Illinois group to the destinations involved, which I pointed out in my previous testimony and in my Exhibit No. 30. To Freeport, Illinois, as illustrative, he shows the long circuitous short tariff route via the B. & O. Railroad from the tariff origin point of Junction, Illinois, on that road in that group.

He also shows the same long circuitous route via the B. & O. Railroad from the same tariff origin point of Junction to Ladd, Illinois.

To Wasco, Illinois, on page 3 of his Exhibit No. 63, is shown the long circuitous short tariff route from New Monarch mine in the Southern Illinois group via the C. B. & Q. Railroad. This mine was permanently closed down and abandoned in 1941 and will not be operated again.

To Dixon, he shows the shortest short tariff route from the tariff origin point of Green Valley in the Springfield, Illinois group on the C. & N. W. Railway. There is no mine at this tariff origin point, and the Coal Traffic representative of the C. & N. W. Railway has advised me that it has been or will be eliminated from the tariffs.

The same criticism may be directed generally to the rest of the routes shown in this exhibit. It shows nothing whatever with respect to the size of or area covered by the Southern Illinois group, nor does it show anything with respect to the average distances over the routes over which the [fol. 2715] coal from such group actually moves to the destinations involved in these cases.

In his rate and mileage exhibits, Mr. Scott has used as a representative Northern Illinois point, Ladd, Illinois, which was not used by any other party to these proceedings. The short tariff route from the Southern Illinois group to Ladd, used by Mr. Scott in his Exhibit No. 63, is so extremely circuitous that I have indicated it on a map, together with a reasonable and practicable short tariff route which could be established from the tariff origin point of Junction used by Mr. Scott in his Exhibit No. 63 in the Southern Illinois group to Ladd.

This exhibit, which is a map, has been marked No. 108. On this map I have shown, by means of the solid red line, the present circuitous short tariff route from the origin point of Junction, Illinois, in the Southern Illinois group, on the B. & O. Railroad to the destination named. I have also shown, by means of the red and blue line, the reasonable or practicable short tariff route from origins on that road in the Southern Illinois group to such point. The latter route is 133.5 miles shorter than the present circuitous short tariff route.

As I previously testified, there is no mine at Junction, Illinois, nor is there any mine on the B. & O. Railroad in the Southern Illinois group, except one exceedingly small one that shipped but 2,300 tons of coal in 1941, none of [fol. 2716] which was shipped to the destination territory involved here. The route of the B. & O. Railroad from origins on its line in that group to points in Northern Illinois should be eliminated entirely from the exhibits in these proceedings, on the theory used by Mr. Scott in omitting the average mileages and present and suspended rates from the entire Evansville and Bedford, Indiana groups from his exhibits.

(Exhibit No. 108, Witness Rozene, received in evidence)

Exam. Trezise: We will adjourn until tomorrow morning at ten o'clock.

(At 4:30 p. m., October 11th, 1943, the hearing was adjourned to 10:00 o'clock, a. m., October 12th, 1943.)

[fol. 2717]

Morrison Hotel,
Chicago, Illinois,
October 12, 1943.

The hearing was resumed pursuant to adjournment, at 10:00 o'clock, a. m.

Before: R. N. Trezise, Examiner.

W. C. Kaylor, Illinois Commerce Commission.

Appearances: As heretofore noted.

Proceedings

Exam. Trezise: Are you ready to proceed?

Mr. Stadell: We have six other exhibits, Mr. Examiner, that I would like to have distributed and marked off the record.

Exam. Trezise: The next number seems to be 109. Shall we proceed?

Mr. Zoll: Have they been numbered?

Mr. Stadell: Will you identify the six exhibits that have been distributed and mark them off the record.

(Discussion outside the record.)

(Exhibits 109 to 114, Witness Rozene, marked for identification.)

Mr. Stadell: On the record, Mr. Examiner, the exhibits that have been identified Exhibits 109 and 110 have the caption on their face "Middle States Fuels, Incorporated, versus The Atchison, Topeka and Santa Fe Railway Com-
[fol. 2718] pany, et al, ICC Docket No. 28888." They are the same exhibits that were introduced by Mr. Rozene in that proceeding, and I would like to have that caption changed in this proceeding to read "Bituminous Coal between points"—or I think it is points in Illinois, ICC Docket No. 28881, I. & S. Docket No. 5139 and Illinois Commerce Commission Docket, whatever that docket number is. Do you know what it is, Mr. Kaylor?

Mr. Christiansen: 30935.

Mr. Kaylor: And 31295. That is the Dixon docket.

Mr. Stadell: That is the Dixon docket.

HARRY A. ROZENE, resumed:

Direct examination (continued).

By Mr. Stadell:

Q. Mr. Rozene, will you please explain what your Exhibit No. 109 shows.

A. Exhibit 109 shows the distances via the shortest tariff routes from the Southern Illinois group to 45 destinations in the state of Wisconsin. Page 1 of the exhibit shows the tariff origin points located in the Southern Illinois group, and pages 3 to 10 show the distances via the shortest tariff routes——

Q. 2 to 10.

A. 2 to 10, inclusive, show the distances via the shortest tariff routes from the Southern Illinois group to the 45 [fol. 2719] destinations indicated.

Page 11 shows a recapitulation of the data shown in pages 2 to 10, inclusive. Pages 12 and 13 show the tariff routes. Page 14 shows the tariff authorities for the rates and mileages used.

Q. And also you have shown in this exhibit, on pages 2 to 10, the present rates on large and fine coal, where there are any rates on fine coal lower than those on large coal from the Southern Illinois group to each of the 45 points shown?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

(Exhibit 109, Witness Rozene, received in evidence.)

Q. Will you please take up and explain what your Exhibit No. 110 shows.

A. Exhibit No. 110 shows the distances and rates via the shortest tariff routes from the Fulton-Peoria, Illinois group to the same 45 destinations in Wisconsin as shown in my preceding exhibit.

Page 1 shows the tariff origin points located in the Fulton-Peoria group. Pages 2 to 10 show the distances via the shortest tariff routes from the Fulton-Peoria group to the 45 destinations in Wisconsin.

Page 11 shows a recapitulation of the rates and distances [fol. 2720] as shown in pages 2 to 10, inclusive. Pages 12

and 13 show the routes. Page 14 shows the tariff authorities.

By Mr. Zoll:

Q. Mr. Rozene, these destinations in Wisconsin are destinations throughout the entire state?

A. Yes, sir.

Q. Aren't they?

A. Yes, sir.

Q. They are not any particular territory?

A. No; throughout the southern part of the state. That is from the middle of the state down.

Q. There are none above the middle of the state?

A. Well, there is a dividing line. We didn't go way up in the extreme northern part of Wisconsin.

By Mr. Stadell:

Q. Why didn't you go up there?

A. Well, there is no coal moving from Illinois up to that extreme northern part of Wisconsin; therefore we didn't compute any distances up to there.

Q. In other words, you in these two exhibits, 110 and 109, took representative points in the portion, the total portion of Wisconsin, to which coal from any of the Illinois mines moved?

A. Yes, sir.

By Mr. Zoll:

Q. These would be destinations both north and south of a line drawn east and west through Madison?

A. Yes, there are points north of that line and also a few points south.

[fol. 2721] Mr. Zoll: Thanks.

(Exhibit 110, Witness Rozene, received in evidence.)

By Mr. Stadell:

Q. Now, will you please explain what your Exhibit No. 111 shows.

A. Exhibit No. 111 shows——

Q. 111.

A. Or Exhibit 111 is a recapitulation of the rates and distances shown in the preceding exhibits, Nos. 109 and 110.

It shows the shortest tariff route mileage from the Fulton-Peoria and Southern Illinois groups and the rates, and also the amount that the rates from the shortest tariff routes are—distances are over the shortest tariff routes, Southern Illinois over Fulton-Peoria.

At the heading there it reads, "Recapitulation of rates and distances shown in preceding exhibits." Insert Nos. 109 and 110.

Q. And the same exhibit numbers should be filled in on the second page of Exhibit 111?

A. Yes, sir.

Q. Now, you have also shown on this exhibit the percentage that the present rates from the Fulton-Peoria and Southern Illinois groups to the 45 representative Wisconsin points are of the Midland scale?

A. Yes, sir.

[fol. 2722] (Exhibit 111, Witness Rozene, received in evidence.)

Q. Will you please take up and explain what your Exhibit 112 shows?

A. Exhibit 112 is a statement showing the distances via short-circuit routes to Beloit, Wisconsin, from tariff origin points located in the Southern Illinois group.

Q. Are you through with your explanation of Exhibit 112?

A. I believe it is self-explanatory, unless I should explain the method of figuring these distances. It is the method usually referred to as the method used in prescribing rates under the Class rate scales.

(Exhibit 112, Witness Rozene, received in evidence.)

Q. Will you please explain what your Exhibit No. 113 shows?

A. Exhibit No. 113 is similar to Exhibit No. 112 except that it shows the distances via the shortest circuit routes from the Fulton-Peoria group to Beloit, Wisconsin.

Q. You said "shortest circuit", you meant short-circuit?

A. Short-circuit, yes, sir. There is a line there, No. 35, "For tariff authorities for distances," insert Exhibit No. 27.

(Exhibit 113, Witness Rozene, received in evidence.)

Q. Will you now please explain what Exhibit No. 114 shows?

A. Exhibit No. 114 shows the number of origin points in each of the Illinois and Indiana groups, the total rates, [fol. 2723] the average rate from each group to the 13 representative suspended points as shown in Witness Scott's Exhibits numbered 41 and 42; also the grand total of such rates and the average rate applicable from all the Illinois origins on the one hand and all the Indiana origins named in such exhibits on the other.

Q. Did you say to what points?

A. To the 13 representative suspended—no, to the 13 destination points as used by Mr. Scott.

Q. In his exhibits?

A. In his Exhibits numbered 41 and 42.

Q. Are the average rates shown on your Exhibit No. 114 from the Indiana groups and from the Illinois groups as a whole different from those shown on Mr. Scott's Exhibits 41 and 42?

A. Yes, substantially different. As an illustration, Mr. Scott shows the average rate from the Illinois fields to Beloit, Wisconsin, as being $2.01——

Q. The Illinois field, you mean?

A. The Illinois field; to Beloit, Wisconsin, as being $2.01, while this exhibit shows the average rate should be $2.15.

Q. How do you account for that difference in the average rate of $2.01 per ton shown on his Exhibits Nos. 41 and 42, and of $2.15 per ton shown on your Exhibit No. 114?

A. Well, as I understand Mr. Scott's exhibit, he has taken the group rate, that is one rate from each group in the state of Illinois. As an illustration, he has used one [fol. 2724] rate from Southern Illinois and one rate from Springfield, and so forth, while this exhibit shows that there are 75 origin points in the Southern Illinois group and 63 origin points in the Springfield, Illinois, group, and so on down; and I have taken the total rate and divided it by the total number of origins.

(Exhibit 114, Witness Rozene, received in evidence.)

Q. Now, referring back a moment to your Exhibits Nos. 109, 110 and 111, in which you show the average distances over the shortest tariff routes from the Southern Illinois and Fulton-Peoria groups to 45 representative destinations

in Wisconsin, were those distances computed under the same method that was used by the parties for figuring average shortest tariff route distances in the Midland Electric Case?

A. Yes, sir.

Q. And that was the formula, or the mileages that were computed on that formula were the ones that were adopted by the Commission in that matter?

A. Yes, sir.

Q. You showed in some of your previous exhibits the number of tons of large coal and the number of tons of fine coal shipped from various origin groups to various destinations or destination territories. Would the heading of "Large coal" generally cover the coal that is used for domestic purposes, such as lump, egg, and nut [fol. 2725] sizes?

A. Yes, sir.

Q. And what would the designation of "fine coal" generally mean?

A. Well, it would generally mean that it was used for steam purposes.

Q. Industrial purposes?

A. Industrial purposes, yes. There might be a size or two that might be used, such as stove coal, that would come under the description of "fine coal."

Mr. Stadell: That is all. I just have one thing I would like to say off the record, Mr. Examiner.

Exam. Trezise: All right, off the record.

(Discussion outside the record.)

Exam. Trezise: Back on the record.

Mr. Stadell: Let me ask this. We would like permission to file——

By Mr. Stadell:

Q. How long will it take you to work that out?

A. It will take quite a while.

Q. Well, how long?

A. I couldn't say. There will be about 20,000 computations, and if we are just permitted to work on it steadily without doing anything else, we ought to be able to get it out in two weeks.

[fol. 2726] Q. Would the 15th——

Mr. Wilkinson: Two weeks is soon enough for me; three weeks, even, if you need the time.

Mr. Stadell: Make it 20 days.

Exam. Trezise: 20 days?

Mr. Stadell: Within 20 days after the closing of the hearing in these proceedings, we ask leave to furnish revised exhibits showing the average ton-mile earnings produced by the present and suspended rates from the mines in Illinois and Indiana to the 12 representative Northern Illinois points and the 14 representative comparative points and the percentages that such rates are of the Midland Electric and 23922 scales; and we will indicate on those exhibits which of Mr. Rozene's previous exhibits in these proceedings which they are revisions of.

Exam. Trezise: There seems to be no objection to that. That may be permitted.

(To be furnished, revised exhibits showing average ton-mile earnings produced by the present and suspended rates from mines in Illinois and Indiana to representative Northern Illinois and representative comparative points; Witness Rozene.)

Mr. Kaylor: You will likewise file three copies with the Illinois Commerce Commission?

Mr. Stadell: Yes, we will be glad to do that.

Mr. Kaylor: The Secretary's office in Springfield.

[fol. 2727] By Mr. Stadell:

Q. Do you have anything further on Mr. Scott's exhibits you want to say?

A. That is all I have.

Mr. Stadell: Cross examine.

Mr. Hunter: Mr. Examiner, I have a few questions.

Exam. Trezise: Mr. Hunter.

Cross-examination.

By Mr. Hunter:

Q. Mr. Rozene, refer, please, to the last three sentences on page 3 of your prepared statement, also the first two sentences on page 4, where you state that if Lincoln were

eliminated from the Springfield group, the northern boundary of the group would be moved a considerable distance south. Can you give us an idea of what you mean by that term "considerable distance"?

A. Yes. My map, Exhibit No. 20, shows the outline of the Springfield group, and as I stated in my testimony, that if Lincoln was eliminated, it would reduce the Springfield group and the boundary line of that group would be just north of the Wabash, running from Decatur to Springfield, Illinois.

Q. Now, if Lincoln alone were eliminated, it being comparatively nearer the Northern Illinois points, that would tend to increase the distance from the Springfield group, would it not?

A. Well, you are comparing one point with about 63. I don't think it would make a very materal difference in distance, on the average.

[fol. 2728] Q. Now, further on you state, on page 4, that if Edwardsville were eliminated, at the south end of the Springfield group, the southerly boundary of the Springfield group would be extended or moved approximately 17 miles north. That, of course, would tend to decrease the distances about 17 miles, wouldn't it, if that alone were involved?

A. It wouldn't decrease on the average 17 miles. Again, here, it probably wouldn't make any difference, because you are weighting one point against 63 points, and on the average I don't think it would make a material difference in the distances.

Q. Now, if Lincoln were eliminated at the north and Edwardsville were eliminated at the south, have you made any computation as to what the net result of those proposed changes would be?

A. No.

Q. Now, Mr. Rozene, referring to page 5 of your prepared statement, where you refer to the fact that if the Pennsylvania is not to be short-hauled on coal moving from its mines in Indiana, the Commission should take into consideration the distances from the Indiana mines on the Pennsylvania to Chicago rather than the mileages via the short or shortest tariff routes. Now, in connection with that, I would like to have you consider mileages from the Southern Illinois mines located on the Illinois Central,

for example; via the Illinois Central to Mendota and [fol. 2729] then the line of the Milwaukee to Rockford. The distance is 331.6 miles. If, however, we use the mileage via the Illinois Central all the way—and I take it you would have no objection to that, because the Illinois Central serves the origin and the destination groups—the distance from the Southern Illinois mines to Rockford would be 365.2 miles. Would you agree that, using your own language, that the Commission should use the Illinois Central mileage, which is 33.6 miles longer than through the route which has been used by the Illinois Central and the Milwaukee?

A. Well, if these lines or these routes from Indiana are to be used in constructing freight rates and comparing them with the mileage from the Illinois mines, in view of the fact that there is no coal moving over those routes, I would say the Commission could well consider the distance to Rockford as you have described it. You are just using like for like.

Q. In other words, you should use the same formula in figuring distances from Indiana as you do from Illinois, and if you use one formula from Indiana, there is no reason why that shouldn't be applied to all of the mileages more circuitous than the short tariff routes from the mines in Illinois?

A. And as I say, if you have a direct route, like has been described here from the Brazil-Clinton district to any of these points in Northern Illinois, and as the record shows there is no traffic moving over it, I say that that should not be considered.

[fol. 2730] Q. Did you give us the tariff authorities for your various circuitous mileages on pages 5, 6 and 7?

A. Yes, in my Exhibit No. 27.

Q. Exhibit No. 27?

A. That is correct.

Q. Now, refer to page 10 of your prepared statement, Mr. Rozene, where you referred to a difference of 81 miles between the average short tariff route distances from the Brazil-Clinton, Indiana group and the entire territory, including Northern Illinois, Wisconsin, Southeastern Minnesota and Eastern Iowa. Now, considering the issues involved in this case, don't you think it would be fairer if you had taken the difference of 104 miles between these

two groups which is shown on page 4 of your Exhibit 97?

A. Why, no. The Indiana producers suggested that we put all this in one territory, and I am showing what the difference would be in the entire territory. If you are going to group the entire territory, that is a difference you should consider.

Q. In making that answer, do you appreciate that the rates to those points are outside the scope of this complaint?

A. They are not involved in this complaint but they have been used here——

Q. Or in this proceeding?

A. They have been used here as establishing, setting up a [fol. 2731] territory to set a differential.

Q. Refer to page 20 of your prepared statement, Mr. Rozene, where you make an analysis or comparison of the Holmes and Hallowell case and the rates prescribed. I should like to ask a question there merely for the purpose of clarification.

As I understand it, there were two scales prescribed by the Commission in the Holmes and Hallowell cases. Will you please explain which of those two scales you refer to?

A. Basic.

Q. In what report? There were two reports.

A. Well, now——

By Mr. Stadell:

Q. Am I to understand, Mr. Rozene, that that is basic and not the maximum?

A. It is maximum. It is not the basic.

By Exam. Trezise:

Q. It is maximum?

A. It is maximum. The basic was prescribed in the first report, and then in the second report it was a maximum scale that was prescribed.

By Mr. Hunter:

Q. They used the maximum scale in the second report?

A. Yes, sir.

Mr. Hunter: That is all, thank you.

Mr. Christiansen: I have a couple of questions.
Exam. Trezise: Mr. Christiansen.

By Mr. Christiansen:

Q. Refer to your Exhibit No. 111, page 2, line 17, which [fol. 2732] shows the differential prescribed in the Midland Electric case, Southern Illinois over Fulton-Peoria to Southern Iowa of 50 cents. Do you know of any movement of coal to that particular territory where the 50 cent differential applies?

A. From Southern Illinois?

Q. No, from Fulton-Peoria.

A. No, sir, I do not.

Q. Assuming that there were 2,000 tons moved to that entire territory, would you say that that was a substantial movement out of four and a half million tons produced?

A. How many tons?

Q. 2,000.

A. No, that isn't substantial compared with four million.

Q. Now, on line 18 you show the differential to Western Iowa of 60 cents per ton.

A. Yes, sir.

Q. Southern Illinois over Fulton-Peoria district.

A. Yes, sir.

Q. Do you know of any movement of coal to that territory from Fulton-Peoria district?

A. No, sir.

Mr. Christiansen: That is all.
Exam. Trezise: Further questions?
Mr. Wilkinson: I have a few questions.
Exam. Trezise: Mr. Wilkinson.

[fol. 2733] By Mr. Wilkinson:

Q. Mr. Rozene, in your Exhibit 97 you stated that the distances were taken from the Carriers' Exhibits Nos. 3 and 4. Did you also use Exhibit No. 3-A?

A. That is the corrected—yes, we took the corrected figures. We attempted to. We corrected our original exhibit when 3-A was presented and made the changes.

Q. Well, I call your attention to the distance which you show in Column F on page 4 from Princeton-Ayrshire, Indiana, to Sterling of 396 miles, and ask you if it is not a fact that Exhibit No. 3-A shows that distance to be 371.8 miles.

A. I couldn't answer that. I would have to look at the exhibit.

Q. Now, under Boonville, you show 383 miles to Geneva, and will you check and see whether or not that distance in the carriers' exhibits is not 357.4 miles? Also on page 4 of your exhibit, Mr. Rozene, I believe you made a serious error in showing the difference of distance, either Evansville over Southern Illinois or Boonville over Southern Illinois, did you not? I mean Princeton-Ayrshire or Boonville.

A. What line are you referring to?

Q. Line 12, Sterling.

A. Well, it shows that this 396 miles is 55 miles greater than from Southern Illinois.

Q. Yes. How about Boonville?

A. There is an error there; that is obvious.

[fol. 2734] Q. You missed an opportunity to show that that was 90 miles greater than from Southern Illinois, didn't you?

A. It is an error.

Mr. Stadell: We will be glad to correct those. Mr. Rozene, check those and get the correct figures in the record, will you?

The Witness: Yes, sir.

By Mr. Wilkinson:

Q. Now, on the first three pages of your exhibit, are not the distances and differentials identical with the distances and differentials shown in Mr. Scott's Exhibit No. 49?

A. Yes. They are taken from the same report.

Q. Now, the difference on page 4 is that you have used the 12 representative destinations selected by the carriers instead of the destinations selected by Mr. Scott, is that not true?

A. Yes, sir.

Q. And you have added one thing. You have bunched the destinations in Wisconsin, Iowa and Southeastern Minnesota which are covered in the 204 ICC case with the 12 representative destinations in Northern Illinois, is that not a fact?

A. Yes, sir.

Q. And the result of grouping all four of those together is to somewhat reduce the differences in mileage as between Southern Illinois on the one hand and the Indiana groups on the other than the differences in mileage shown in the report in 204 ICC?

[fol. 2735] A. Well, by adding these 12 points makes a——

Q. I say that is the result?

A. Yes.

Q. Of bunching them together?

A. Yes.

Q. Is that the purpose of this exhibit, to show——

A. No. Pardon me.

Q. To show that by adding them all together, you would somewhat narrow the differences in distance between the Indiana groups and the Southern Illinois groups?

A. No, sir. This is offered in rebuttal to your statements that you should have the same differential to this territory as you have to the territory beyond, and we have simply shown what the result would be if the 12 destinations involved in this proceeding—what the result would be if it was included with the territory beyond.

Q. You think this should be, because of the fact that that is Northern Illinois destinations, for example, Princeton-Ayrshire on the average is a 7-mile shorter haul than Southern Illinois, whereas to the 70 destinations in Wisconsin, Iowa, and Minnesota, Princeton-Ayrshire is an average of 20 miles longer haul than Southern Illinois and has a 13 cent differential to those three points of Wisconsin, Iowa, and Minnesota, are you contending that because the difference in distance favors Princeton-Ayrshire in Northern Illinois, it should have a wider dif-

[fol. 2736] ferential?

A. No, that is one you are advocating.

Q. No, I am asking you if that is what you are intending to show by this exhibit?

A. I am showing you what the difference in distance would be if all of the territory was grouped as you suggested, just showing the result of what it would be.

Q. And that is the sole purpose of it?

Mr. Stadell: Now, I object to any such question as that, Mr. Examiner. The witness has stated very clearly on his direct examination what the purpose of it is. If Mr. Wilkinson wants to know the purpose of it, I will be glad to tell him what the purpose of it is.

Mr. Wilkinson: Will your answer stand for that of the witness, Mr. Stadell?

Exam. Trezise: Counsel may tell you what the purpose of any exhibit is.

Mr. Wilkinson: Oh, sure.

Exam. Trezise: If he desires.

Mr. Stadell: I don't know that we need disclose the purpose of it. The exhibit speaks for itself.

By Mr. Wilkinson:

Q. In your Exhibit No. 98, I understand that is merely to show rates to this territory that are lower than the rate from Southern Illinois of $2.10 for 369 miles?

A. It shows that.

[fol. 2737] Q. And that is all that it tends to show, as I gather?

A: Well, it shows that there are lower rates from Indiana points to destinations up here; take from Rockford—or Southern Illinois to Rockford.

Q. Can you tell me, Mr. Rozene, whether or not during 1936 the rates of the Milwaukee Railroad to Rockford, Freeport and other stations on its line intermediate to the Indiana mines, which were on the same level as the rates from Springfield, Illinois—that is the same level from Brazil-Clinton—were in effect?

A. The record shows that. It slips my mind just what the effective date of—the reduced rates from the Indiana mines, from the St. Paul Railroad mines?

Q. Yes, the ones that were reduced 17 cents a ton.

Mr. Stadell: I would be willing to concede, Mr. Rozene, that they were made effective sometime in 1934.

Mr. Wilkinson: Were they 1934?

Mr. Stadell: I think so.
The Witness: I have it here in my direct.

By Mr. Wilkinson:

Q. In your prepared statement, pages 3 and 4, where you discuss the effect on the Springfield group of omitting, Lincoln and omitting Edwardsville, you did not follow that theory of omission in the preparation of the various exhibits which you have filed in this case, have you?

A. No, sir. We were merely showing that if we left these [fol. 2738] points out, as Mr. Scott has done, such as the Bedford mines and the Evansville mines, that it would be proper to leave Lincoln out, where there is no production whatever.

Q. Now, isn't it a fact, Mr. Rozene, that in any of the groups there are origin points shown in the carriers' tariff which at the present time do not originate any coal traffic?

A. Yes, there are.

Q. Are you advocating that in these cases the parties use origin points and figure distance from origin points shown on the carriers' tariffs or that they must go out and find out whether or not coal is moving from each origin point that is used?

A. No, I think at the conference we had prior to these hearings it was decided to take the tariff origin points.

Q. I see.

A. And Mr. Scott hasn't done it, so he is using some other method than was agreed upon at that hearing, at that conference.

Q. Now, you discussed at some length the distances from the mines in the Brazil-Clinton and Indiana groups served by the Pennsylvania and what the mileage would be over certain routes of the Pennsylvania, hauling it to Chicago and delivering it to connections at Chicago. Did you use the routes via the Pennsylvania Railroad to Chicago and out to Rockford, Freeport and other destinations when you were figuring the distances from the Indiana groups, Brazil-Clinton and Linton-Sullivan to these destinations?

[fol. 2739] A. No, we used the short tariff route as shown in the tariffs, via Terre Haute or Beehunter.

Q. The same tariff routes that Mr. Scott used in his tariffs?

A. Yes, sir.

Q. So in that respect you are not criticizing the use of the short tariff routes?

A. Well, as I have stated before, why have a short tariff route in there, when it is stated that no traffic moved on it? Why, what is the purpose of the route, if it isn't for one thing, if it isn't for comparing the distances with Illinois? That is the way it looks to me. It is there for that one purpose and that one purpose only.

Q. Would you say that the route to which Mr. Hunter referred, via the Illinois Central to Mendota and then the Milwaukee to Rockford, as compared with the direct line of the Illinois Central, was put in in order that you might have a more favorable comparison of your distances from Southern Illinois?

Mr. Bather: Now, Mr. Examiner, I object to that question because there is a movement of coal via the Illinois Central, Mendota and the Milwaukee Road. I understood this witness to state there is no movement from Pennsylvania mines via Beehunter.

Exam. Trezise: I wondered where we were getting, anyhow, with these questions.

Mr. Wilkinson: I just want to find out the basis of that criticism. We are having our exhibits criticized and I am trying to find out the witness' theory of the [fol. 2740] criticism.

Mr. Stadell: He stated the basis of it in his direct testimony.

Mr. Wilkinson: I am trying to find out how far he wants to go with it.

Mr. Stadell: He stated it was merely an answer to Mr. Scott's testimony, that the shortest tariff route distances from Illinois or Southern Illinois didn't measure the regular transportation service, and he was showing that same thing was true with respect to the short tariff route distances from Indiana.

Mr. Wilkinson: I don't know whether my question was answered or just what the status of it is.

Exam. Trezise: The counsel, I thought you accepted his answer rather than the witness'.

Mr. Stadell: You asked what the purpose of the criticism was and I told you, Mr. Wilkinson.

Mr. Wilkinson: No, the question I asked was——

Exam. Trezise: You want the answer from the witness?

Mr. Wilkinson: Yes, I want the answer from the witness, if he thinks that same criticism—if he thinks that the rate or route published via the Illinois Central, Mendota and the Milwaukee to Rockford, which is some 40 or 37 miles shorter than the Illinois Central direct, was also published for the purpose of shortening the distance for comparative purposes in cases before the Commission, the [fol. 2741] same as he charged that these routes from Indiana——

The Witness: I don't know what purpose it was published for.

By Mr. Wilkinson:

Q. When you stated that the purpose of the publication of the routes from the Pennsylvania mines via Beehunter and Terre Haute and the Milwaukee beyond was to shorten the distance for comparative purposes from the Indiana groups, had you consulted with any of the officials of the Pennsylvania Railroad or the Milwaukee Railroad, upon which you based that statement?

A. No, I haven't consulted any of the officials of any railroads about these routes, but I know how those routes happened to come into that tariff, and that happened just before we tried the case in 25595. Those routings are established and they are published in a tariff in such a manner that the average rate man checking the tariff can't even find the route; and furthermore there were other routes published—I can refer to one of them in connection with the Monon. They give the Monon a 9-mile haul from their mines to Midland. However, since then that route has been cancelled; but it is my belief those routes were put in there for the express purpose of shortening the routes from Indiana.

Q. You are giving it now as an assumption or opinion rather than as any basic fact?

[fol. 2742] A. That is my opinion, yes, sir.

Exam. Trezise: Now, he said it was his belief before, and before that he said "it seems that way to me," as I recall it.

Mr. Wilkinson: As I recall it in his direct evidence he had stated that it was for that purpose. I can't carry all

those things in my mind, but that was the impression I had. I am trying to find out where he got his information. Now, I find out it is his opinion or assumption.

Exam. Trezise: That is right. It seemed that way to him.

By Mr. Wilkinson:

Q. Was the Illinois Coal Traffic Bureau in existence in 1923 and 1924, Mr. Rozene?

A. Yes, sir.

Q. Were you associated with it at that time?

A. Yes, sir.

Q. Do you know whether or not that Bureau, through its representatives, participated in the conferences and hearings surrounding the Blue Book publication that you referred to in your tariff?

A. I think Mr. Wildman attended the meetings down in Washington.

By Mr. Stadell:

Q. In 1923 and 1924?

The Witness: Wait a minute. The Blue Book, you are talking about?

By Mr. Wilkinson:

Q. Yes.

[fol. 2743] A. Well, I said Mr. Wildman. Probably Mr. Wildman wasn't with us at that time.

Q. Mr. Harwood?

Mr. Stadell: If you know it of your own knowledge. Don't be guessing at something, Mr. Rozene.

The Witness: I know from the file. I can't remember back whether Mr. Harwood or——

By Mr. Wilkinson:

Q. Somebody in your Association participated in the conferences that led to this Blue Book tariff publication and were a part and party to that proceeding, were they not?

A. As I say, I presume they did. I can only talk from the file. I don't remember just who went down there.

Q. Now, is it not a fact, Mr. Rozene, that to many points in this Northern Illinois territory, Southern Wisconsin, Iowa, prior to the July 15th and 19th, 1925, Blue Book publications, or rather prior to the increases and decreases that led to that publication, there were many points of destination at which the differentials as between Southern Illinois and Brazil-Clinton were 30 cents per ton?

A. I doubt it.

Q. You doubt it?

A. Yes.

Q. Were there some destinations?

A. There may have been a few but there w*asn't* many.

[fol. 2744] Q. There weren't many?

A. If any.

Q. Now, are you sure or are you just making a nice answer?

A. I can't state definitely.

Q. Then you don't know?

A. I don't know, that is right. Definitely, I don't.

Q. Did you bring with you the reports of the United States Department of the Interior, Bituminous Coal Division, from which the data shown on your Exhibit No. 106 was secured?

A. Yes, sir.

Q. May I see those?

A. Yes, sir.

Mr. Wilkinson: Off the record, Mr. Examiner.

Exam. Trezise: Off the record.

(Discussion outside the record.)

Mr. Wilkinson: Back on the record, Mr. Examiner. On the basis of the letter from Mr. George Lamb of the Statistical Bureau of the Bituminous Coal Division to Mr. Stadell, I move to strike the Exhibit No. 106 as not being information taken from a publication or public document promulgated by the Bituminous Coal Division of the Department of the Interior.

Mr. Stadell: As this letter states, Mr. Examiner, it says, "To the extent that these separations," namely, the separations with respect to the cost of the various types of mines, "To the extent that these separations were made in the [fol. 2745] statistical tables prepared by the Division," namely, the Bituminous Coal Division, "and used in ex-

hibits in public hearings or otherwise made available to the public, such information is shown in the attached tables." In other words, it was made available to the public either through exhibits or in some other way this information taken from the records of the Bituminous Coal Division is shown on these statements which were prepared by the Statistical Division or Section of the Bituminous Coal Division.

Exam. Trezise: The Examiners are inclined to believe that that is a public record. Whether they printed one copy of it or ten thousand wouldn't have anything to do with it. It is a public record, made available to the public, and it would be received—that wouldn't be objectionable, as I understand it.

Mr. Wilkinson: So I take it my motion is overruled?

Exam. Trezise: That is correct, Mr. Wilkinson.

By Mr. Wilkinson:

Q. You have emphasized, Mr. Rozene, the fact that there is not as much tonnage produced in the Brazil-Clinton, Indiana group today in recent years as there formerly was. Do you know whether or not a good many of the mines in the Brazil-Clinton group have been exhausted in the last—since 1923, when you start your figures?

A. Whether they have been exhausted?

Q. Yes, worked out.

[fol. 2746] A. No, I don't know.

Q. You don't know anything about that?

A. No.

Q. You just know the mines in one group produce more coal than mines in another group?

A. I know tonnages have been shifting to the south and I have heard Mr. Scott's predecessor testify to that many times.

Q. One of your exhibits that shows shipments 1923 down to date?

A. Shipments, yes, sir.

Q. Tends to show that?

A. They show the shipments, not the production.

Q. Well, your exhibits show all the shipments of coal made from these mines, do they not, Mr. Rozene?

A. They show all the coal reported by the railroads that was shipped, yes, sir.

Q. Doesn't that include everything except railroad fuel and truck shipments?

A. Truck shipments don't move over railroads.

Q. No, I say it shows all the coal except the railroad fuel and the coal that may have moved by truck?

A. Anything that was consumed at the mine, that didn't move out, surely.

Q. Do I understand from your statement on page 18, that where you stated, "In view of all of these changes, it is our opinion that the few remaining mines in the Boonville group should be consolidated with those in the [fol. 2747] Princeton group," that you are now advocating a consolidation of the Princeton, Indiana group and the Boonville group?

A. Yes, in view of the fact that every year or so there is a proposition on the Illinois Freight Committee dockets to move some mine from the Boonville district into the Princeton district, and we are continually watching that, and even as recently as three years ago there was a mine that was shifted from the Boonville group into the Princeton group, and that was the Tecumseh mine. That was originally placed in the Boonville group and then shifted over to the Princeton group, and if we are going to continue that, keep moving these mines over there, we say consolidate the two and eliminate that and make a basis of rates from the combined groups.

Q. Now, the Tecumseh mine was opened very shortly prior to the so-called shifting that you talk about, was it not? It had just come into operation, hadn't it?

A. Yes.

Q. When that occurred?

A. Yes.

Q. And it was served by two lines, wasn't it, the New York Central and the Southern?

A. I don't think it was served by the Southern.

Q. Now, isn't it a fact that back in 1930, the so-called shift that you talk about was the result of the New York Central Railroad publishing from the mines on its line [fol. 2748] which had previously taken the Boonville rates, the Princeton-Ayrshire rates? Wasn't that the shift that you talked about?

A. No, I didn't talk about that shift.

Q. The one in 1930?

A. I am talking about these continuous shifts that come up. For instance, there was a proposition not long ago of the Southern Railroad to put all the mines in the Boonville district into the Princeton district. Now, if they think that is all right, we say make a rate from all of the groups, the two combined groups, and eliminate the Boonville group entirely.

Q. Do I understand you to say that the Southern Railroad made such a proposition before the Coal and Coke Committee?

A. Yes, sir.

Q. That wasn't the position they took on the stand here, was it?

A. No, they didn't want any of their rates increased up here, as I recollect. And that proposition that we are speaking of, Boonville, of the Southern attempting or suggesting to put the Boonville basis of rates in or put the prescribed basis of rates in from Boonville was in Illinois Freight Association Docket No. CC 393-56, dated December, 1939, and May, 1940.

Q. And it wasn't done?

A. Nothing has come of it yet.

Q. You discussed yesterday, at pages 24 and 25 of your [fol. 2749] prepared statement, Mr. Scott's Exhibits 61, 62 and 71, which dealt with the mileages via the C. & E. I. and the New York Central from Indiana origins and from Southern Illinois. Now do you know whether or not the C. & E. I. and the New York Central serve Princeton and also—mines in the Princeton-Ayrshire district and mines in the Southern Illinois district?

A. Yes. The C. & E. I. serves one mine in the Princeton-Ayrshire district.

Q. And they are the only two carriers that serve mines in the Princeton-Ayrshire district and mines in the Southern Illinois district, aren't they?

A. Yes, I believe they are.

Q. And via the routes of those two carriers, via the routes published by each of those carriers, the short tariff routes published by each of those carriers, the distance from Princeton-Ayrshire to these destinations in Northern Illinois ranges around 30 to 35 miles less than the distance

from the mines served by them in Southern Illinois, is that not a fact?

A. I don't know. The exhibits will show that.

Q. Whatever the exhibits show, 41, 42, or 61, 62 and 71 show in that respect is correct?

A. *Are* correct?

Q. Yes, with respect to the New York Central and the C. & E. I.?

A. I don't know whether they are correct or not. I haven't checked the figures.

[fol. 2750] Q. Oh, you haven't checked them?

A. I haven't checked the figures, no.

Q. Now, on this Illinois Central, it serves Linton-Sullivan mines. It publishes two rates from its mines in the Linton-Sullivan district to Rockford and other points in Northern Illinois which it serves direct, does it not?

A. Two rates?

Q. Yes.

A. To what point?

Q. That is, for example, to Rockford. Is it not a fact that the Illinois Central publishes one rate of $1.90 to Rockford via its own line and another rate of $2.02 when the coal moves via the line of the Illinois Central and the C. M. St. P. & P.?

Mr. Kaylor: Do you mean from Southern Illinois?

Mr. Wilkinson: No, I mean from Linton-Sullivan.

The Witness: It publishes a rate of $1.90, the same as the St. Paul rate into Rockford.

Mr. Wilkinson: Yes; that is when it goes direct via the Illinois Central.

By Mr. Wilkinson:

Q. Now, what is the rate that it publishes in connection with the Milwaukee?

A. Well, it is something higher than that. I don't know just what it is.

Q. $2.02. I want to know, Mr. Rozene, what you consider the proper distance to use, or distances and rates to use in that situation on the Illinois Central to Rockford, [fol. 2751] for example, where, via its own line, with a longer haul than via the connection with the Milwaukee, it publishes a lower rate than it does via the Milwaukee con-

nection. In your exhibits have you shown both routes and rates, or if you haven't shown both, which have you used?

A. I have shown the lowest rate and the distance in connection with that rate over the route it applies. I have done that from Indiana and from Illinois alike.

Q. Is that the short or shortest tariff route from those mines on the Illinois Central?

A. I don't think it is.

Q. Do you know when the Illinois Central first published the rates from Linton-Sullivan to this territory, to destinations on its own line on the basis of $1.90 to Rockford and what we call the standard differentials under the Milwaukee rates?

A. No, I don't know the exact date that they published those.

Q. It has been rather recently, hasn't it?

A. I said I didn't know.

Q. Now, is it not a fact that in using, as you have done, on pages 25 and 26 of your prepared statement, the distances and rates from the Illinois Central mines in the Linton-Sullivan group for comparison with rates from Southern Illinois via the Illinois Central, that you have used the longest haul out of Linton-Sullivan and the lowest rate applicable from Linton-Sullivan, while from [fol. 2752] Southern Illinois you used the shortest haul and the rate which is uniform for all Southern Illinois points?

A. We used the same method you used in your exhibits. Now, whatever the result is, it shows.

Q. The result is as I have stated?

A. I don't think so. I would have to check into it. We have used the same identical method you used from Indiana.

By Mr. Stadell:

Q. You used it for the same purpose?

A. Same purpose, yes, sir.

By Mr. Wilkinson:

Q. But is the result as I have stated it? Have you checked enough to know that?

A. I have checked the mileage. I haven't checked to see whether it was the shortest in every case or not, or in any case. It is very easy to check that up.

Q. In your Exhibit No. 114, for example, you show rates to Beloit from the Illinois and Indiana groups, you show 75 origins in Southern Illinois and you show a total rate of 18,000. Now, isn't it a fact that to arrive at your total rate of 18,000, you merely multiply 240 by 75?

A. That is the only way you could.

Q. And the same is true with respect to your 63 Springfield rates, 13,230?

A. Yes.

Q. You have multiplied the $2.10 rate by the 63 origins? [fol. 2753] A. Well, you get the same result if you put 210 down 63 times and add them up.

Q. Yes. Now, as a matter of fact, you have a uniform rate from each of these groups to Beloit, except from Peoria, and there you have two rates, one of $1.94 and one of $1.80, isn't that correct?

A. Yes.

Q. Is not the situation with respect to those rates different than the situation with respect to mileages where, from each origin point, you have a different mileage to any destination?

A. No. There is no difference at all. You have got a rate from each one of those origin points. Because the rate happens to be the same from the 75 does not signify there is only one rate from the group. There is one rate from each one of those origin points the same as you the mileage.

Q. You have the same rate from each origin point, but you have a different mileage from each origin point?

A. That doesn't make any difference, if the rate is the same. You have still got a rate from each origin point.

Q. If you had added Column E for the Illinois origins and divided by the number of different rates that you had, would not your average have been $2.01?

A. Probably would.

Q. Now, you stated in your direct examination the effect your method of determining average rates from a state had on the Illinois rates. What, if any, effect would your [fol. 2754] method have on the Indiana rates?

The Witness: Read that.

Exam. Trezise: Read the question, please, Miss Reporter.

(Question read.)

By Mr. Wilkinson:

Q. As contrasted with the way Mr. Scott worked it out?

A. Well, I think Mr. Scott has worked his average rates just like I worked mine, that we are going to correct.

Mr. Stadell: Wait a minute, now.

The Witness: You want to know what effect——

Mr. Stadell: Wait a minute; you didn't state what you meant to state. Read that answer back. That is inconsistent with what you already testified to.

(Answer read.)

Mr. Stadell: That isn't right.

Mr. Wilkinson: Who is testifying?

The Witness: That I worked my average ton-mile earnings and relationships to the scales, instead of my rates.

Mr. Wilkinson: That is not my question.

By Mr. Wilkinson:

Q. What I am trying to get at, Mr. Rozene, is this: you show in your Exhibit No. 114 to Beloit the average rate from the Indiana groups to be $2.20. Now, isn't that the same average rate that Mr. Scott showed in his exhibit?

[fol. 2755] A. No, I think he showed $2.22.

Q. $2.22. Your method, as applied to the Indiana rates, did not increase the Indiana rates as much as applying your method to the Illinois rates shown by Mr. Scott?

A. No. In fact, it reduced them in some instances.

Mr. Wilkinson: That is all.

Exam. Trezise: I think we will take a brief recess at this time, gentlemen.

(Recess taken.)

Exam. Trezise: Any further questions?

Mr. Bather: I have a question to ask Mr. Rozene, Mr. Examiner.

Exam. Trezise: All right, Mr. Bather.

By Mr. Bather:

Q. Mr. Rozene, do you know of any movement of coal on the Illinois Central mines in the Linton-Sullivan district on the $2.02 rate?

A. No, sir, I do not.

Q. Do you know if there is any movement of coal by the Illinois Central direct on the $1.90 rate?

A. No, sir.

Mr. Bather: That is all.

Exam. Trezise: Do we have any further questions of Mr. Rozene? If not, you may be excused.

(Witness excused.)

Exam. Trezise: Do we have further testimony, before the [fol. 2756] carriers put in their rebuttal?

Mr. Stadell: I have a couple of questions that I would like to ask Mr. Wildman.

Mr. Wildman: I don't know whether I have been sworn in this proceeding or not.

Exam. Trezise: No, sir.

W. Y. Wildman was sworn and testified as follows:

Direct examination.

By Mr. Stadell:

Q. Will you please state your name, business address and occupation?

A. W. Y. Wildman, 307 North Michigan Avenue, Chicago, Illinois. I am associated with the Southern Illinois Coals, Incorporated.

Q. Could you briefly explain what the nature of the Southern Illinois Coals, Incorporated, is.

A. Well, Southern Illinois Coals, Incorporated, is a trade association, and prior to the expiration of the Bituminous Coal Act of 1937, acted as a marketing association. It still acts as an intermediary on sales of certain coals which it has sold for its producer member companies.

Prior to the expiration of the Bituminous Coal Act, I was chairman of the Marketing Division of the Southern

Illinois Coals, Incorporated, and have occupied that position, and with the expiration of the Coal Act the Marketing Division was abolished; so I can't say that I am chairman of the Marketing Division any more. I am associated with [fol. 2757] the organization and one of its attorneys and its employees.

Q. Approximately how long have you been associated with or employed by the coal industry in Illinois?

A. 20 years.

Q. Have you made an investigation, Mr. Wildman, from the records of the Southern Illinois Coals, Incorporated, and with the member companies of that organization, as well as other coal-producing companies in the Southern Illinois field, to determine how much coal, if any, has been shipped during the past several years via the Southern Illinois mines to cement plants located in the so-called LaSalle-Oglesby district in Illinois?

A. Yes, I have.

Q. What did your investigation disclose with respect to the tonnage shipped by those mines to those cement plants?

A. Well, many years ago we shipped a very substantial quantity of coal to the plants in the Illinois River Valley in the vicinity of LaSalle and Oglesby, but there is no Southern Illinois coal moving to such plants today. Our records indicate that it has been 1941 since we shipped coal into that area.

Q. And the cement plants in the LaSalle-Oglesby area that you refer to are those of the Alpha Portland Cement Company, the Marquette Cement Company and the Lehigh Cement Company?

A. Yes.

[fol. 2758] Q. Did you also ascertain how much, if any, tonnage has been shipped or is being shipped by the Southern Illinois mines to the cement plant of the Dewey Cement Company at Linwood, Iowa?

A. We did ship a considerable tonnage of coal to that mine but have made no shipments since 1940.

Q. And when that tonnage did move from the Southern Illinois mines to Linwood, could you tell us how it moved during the last few years it moved?

A. During the last few years it moved, it was moved by rail to Alton and thence by barge to the Linwood plant.

Q. Do you happen to know what the combination rail-barge charges were?

A. No, I don't recollect.

Q. Did you ascertain how much coal traffic, if any, the Southern Illinois mines shipped during 1941 and 1942 to the Medusa Portland Cement Company at Dixon, Illinois?

A. Yes, I made an investigation of that and also contacted another Southern Illinois company that is the only carbon producer in the field outside of Southern Illinois Coals, Incorporated; and added their tonnages to the tonnages of the members of Southern Illinois, Incorporated, and this investigation shows that in the calendar year of 1941 there was a movement of approximately 64,000 tons of Southern Illinois coal to the Medusa Portland Cement Company at Dixon, while in 1942 the tonnage shipped was approximately 33,000 tons.

[fol. 2759] I can't tell you the figures for 1943, but I do know that in 1941 and 1942 there were five companies in Southern Illinois shipping to this plant, and in 1943 there are only two companies shipping.

Q. You referred to the coal being shipped to that plant as "carbon." Could you briefly explain what you mean by that term?

A. Well, carbon is coal which would pass through a five-sixteenths inch screen. If I said it was all carbon I misspoke myself, because there is a considerable volume of dedusted screenings which moves to that plant in addition to the carbon.

Q. But the tonnage of the dedust would be included in the total tonnage that you gave?

A. That is right. I believe this plant probably uses more dedusted screenings than most cement plants; I mean in proportion to the carbon.

Q. Now, in one or more of the exhibits that has been presented in these proceedings, the tonnage shipped from the various Illinois groups to destinations in Wisconsin in the years 1941 and 1942 and preceding years *are* shown. Have you made any investigation to determine the distribution of that tonnage and what proportion of it was consigned to the public utility plants at Lakeside, Wisconsin, which is immediately outside Milwaukee?

A. Well, I can't say just what these exhibits have shown because I haven't seen the exhibits, but I do know that there is a very substantial movement of coal from Southern [fol. 2760] Illinois to the plant of the Wisconsin Electric Power Company at Lakeside, which is in the vicinity of Milwaukee, Wisconsin; and that volume will aggregate between seven and seven and a half million tons of coal——

Q. Thousand.

A. 700,000 and 750,000 tons of coal annually. Substantially all of that coal is this so-called carbon, very fine coal, five-sixteenths of an inch in size and smaller, which, of course, includes considerable dust, minus 10 and minus 48 mesh dust. It is sold at a cheap price, in fact it is the cheapest price of coal in Southern Illinois outside of dust, and I don't believe anybody in this room could carry a dime's worth of it on their back.

Q. The plant that you referred to at Lakeside is located in the Milwaukee switching district, isn't it?

A. I believe it is.

Mr. Stadell: That is all. Cross examine.

Exam. Trezise: Any questions?

Cross-examination.

By Mr. Christiansen:

Q. Mr. Wildman, you did ship some coal to Linwood, Iowa, the Dewey Portland Cement Company in 1941, did you not?

A. My record indicates that the last shipment was in September. There might have been some in 1941, small shipments.

[fol. 2761] Q. You did ship some, Mr. Wildman, to the LaSalle district in 1941, did you not?

A. Yes.

Mr. Christiansen: That is all.

The Witness: Not since 1941.

Mr. Stadell: Is that all the cross examination?

Exam. Trezise: Any further questions?

Mr. Wilkinson: Just one question.

Exam. Trezise: Mr. Wilkinson.

By Mr. Wilkinson:

Q. Does Southern Illinois supply the needs of the Lakeside plant, its total needs?

A. There is a small amount of coal moving in there from Indiana. They can't get all the coal they want from Southern Illinois. They would like to get it. They try to reduce the number of shippers they purchase from. There are only six Illinois shippers. They would like to get it all from one if they could get it, but we haven't got the coal in there and so they are taking about 100,000 tons of Indiana coal a year, maybe a little more than that.

Q. And that is the same kind of coal you ship, isn't it?

A. I don't know what kind they are shipping from Indiana.

Q. This carbon that you speak of, there is quite a substantial demand for carbon in certain types of plants, is there not, Mr. Wildman?

A. No, I would say to a limited number of users. I will say that the industrial plants which will use carbon [fol. 2762] wouldn't be five per cent of the industrial plants that would use screenings, a larger size; one to two inch screenings.

Q. The ones that use the carbon are mostly large plants, aren't they, with peculiar types of burning equipment?

A. Generally speaking the people that burn carbon are powder coal plants.

Q. And those are usually large plants?

A. That is correct.

Mr. Wilkinson: That is all.

Mr. Bather: I have a question.

By Mr. Bather:

Q. Mr. Wildman, there is a substantial movement of coal from Southern Illinois to Rockford and Freeport, is there not?

A. Yes, there is.

Q. Has that increased or decreased during the last three or four years?

A. Well, I haven't made a recent check of that, Mr. Bather, in the aggregate. I know that we have lost considerable business to Indiana over the last ten or fifteen years

in Rockford. Now, whether or not the aggregate shipments have increased or decreased, I really couldn't say.

Mr. Bather: That is all.

Exam. Trezise: If there are no further questions, you may be excused, Mr. Wildman.

[fol. 2763] The Witness: Thank you.

(Witness excused.)

Exam. Trezise: Do we have further testimony?

Mr. Christiansen: Mr. Examiner, before we start with the carriers' testimony, I would like to put in the tonnages that moved to the Southern Iowa destinations, which will only take about a minute.

Exam. Trezise: Very well, Mr. Christiansen.

A. J. CHRISTIANSEN (recalled):

Direct examination.

The Witness: My name is A. J. Christiansen. I am the same A. J. Christiansen that previously testified in this proceeding.

In the year 1941, the Fulton-Peoria district shipped 964 tons to Ottumwa, Iowa, and 1176 tons to Highland Park, Iowa, two destinations in the 50 cent territory; that is the 50 cent differential territory where Fulton county is 50 cents under Southern Illinois.

Those were the only shipments made to that territory in the year 1941. The shipments to Ottumwa, Iowa, were shipped to one of the Deere & Company plants on a contract covering the sale of coal to Deere & Company for their Moline, East Moline, Illinois, and Waterloo, Iowa, plants, and they took this tonnage at Ottumwa for their Ottumwa plant.

[fol. 2764] The tonnage that moved to Highland Park, Iowa, moved to the selling agent of Truax-Traer Coal Company. It was their own coal.

To the destinations in the 60 cent territory in Iowa, the total tonnage in the year 1941 was less than 1800 tons.

That is all.

Exam. Trezise: Any questions?

Mr. Stadell: I just want to ask you a couple of questions:

Cross-examination.

By Mr. Stadell:

Q. Did you say Island Park?
A. Highland.
Q. Highland Park?
A. That is Des Moines.
Q. That is Des Moines?
A. Yes, sir.
Q. And Ottumwa is located in the immediate vicinity of Des Moines?
A. No, Ottumwa is southeast of Des Moines.
Q. Both Ottumwa and Des Moines, however, are located in what is known as the Iowa coal field, aren't they?
A. That is true, yes.

Mr. Stadell: That is all.

Exam. Trezise: If there are no further questions, you may be excused.

(Witness excused.)

[fol. 2765] Exam. Trezise: If there is no further testimony before the carriers put on their rebuttal—off the record, please, Miss Reporter.

(Discussion outside the record.)

Exam. Trezise: We will adjourn until two o'clock.

(At 12:25 p. m. recess taken until 2:00 p. m.)

AFTERNOON SESSION

The hearing was resumed pursuant to recess.

2:00 P. M.

Exam. Trezise: All right, gentlemen, when you are ready we will begin.

Mr. Zoll: I call Mr. Hamilton.

B. M. Hamilton (recalled):

Direct examination.

By Mr. Zoll:

Q. You are the same Mr. Hamilton who has testified before in this case, are you not?
A. I am.

Q. And I believe you have a further statement as to your position. I would like to have you give it at this time.

A. When the suspended rates were published to comply with the order in ICC 25419, in which the rates from Illinois, Indiana and West Kentucky to Beloit were found not unreasonable but unduly prejudicial to Beloit, Wisconsin, and unduly preferential of Rockford, Illinois, to the [fol. 2766] extent that the rates to Beloit exceed by more than 15 cents per ton the contemporaneous rates to Rockford, it was not contemplated that there would be any particular disruption of the present differentials. However, the opposition to the suspended rates has given special attention to the question of differentials. Therefore, I feel compelled to state my position in regard to the relationship of rates from Southern Illinois versus Indiana.

For example, to Rockford, Illinois, the distance from the Springfield, Illinois, group is 108½ miles less than from Southern Illinois, and the difference in rate Springfield under Southern Illinois is 30 cents per ton. From the Brazil-Clinton, Indiana group to Rockford, the average distance is 116.2 miles less than from the Princeton, Indiana group and the difference in rate from Princeton over Brazil-Clinton from mines on the C. M. St. P. & P. by that line direct is 29 cents per ton, but for joint hauls in connection with the C. M. St. P. & P. and from mines on other origin lines, the difference in rate is 12 cents per ton.

To Rockford, Illinois, the distance from the Boonville, Indiana group is 154.4 miles greater than from the Brazil-Clinton, Indiana group, and the rates from the Boonville group are 32 cents per ton higher than the rates from the Brazil-Clinton, Indiana group by the C. M. St. P. & P. direct and 15 cents higher than the rates via other routes. [fol. 2767] Therefore it seems fair and proper in relating the Indiana and Illinois rates, to start on an equal basis and not use the most distant group, Southern Illinois, as the Illinois base group and the nearest group, Brazil-Clinton, as the base group in Indiana.

In other words, for example, to Rockford, Illinois, the Princeton-Ayrshire, Indiana group is practically the same distance as from Southern Illinois and the rates from the Princeton group should not be any lower than the rate

from Southern Illinois; and certainly rates from the Boonville group for a greater distance than from Southern Illinois should not be any lower than from Southern Illinois.

The average distance to the 12 representative suspended points is, from Southern Illinois, 361.9 miles; from Princeton-Ayrshire, Indiana group, 358.8 miles; from Boonville, Indiana group, 391.1 miles.

Q. Those mileages you have given are from the Carriers' Exhibits 3 and 4?

A. They are.

Q. Now, you say that you have been constrained to make that statement because of the fact that differentials have been injected into this case, and I will ask you the question; in view of that, whether you are supporting the suspended rates that the carriers have published?

A. Yes. I am supporting the suspended rates but if the Commission decides that the rates should be the same [fol. 2768] from all mines in the Brazil-Clinton, Indiana group via all routes and the same from all mines in the Linton-Sullivan, Indiana group via all routes and that the rates from the Princeton-Ayrshire group and from the Boonville, Indiana group should be made differentials under the Brazil-Clinton or Linton-Sullivan groups, this should not result in any reduction in the present or proposed rates from the Princeton-Ayrshire or Boonville, Indiana groups.

In other words, the present rate from the Princeton-Ayrshire group to Rockford, Illinois, for one mile greater distance is one cent less than the rate from Southern Illinois; and it would be unfair to the Illinois shippers and the railroads for the Commission, in approving the proposed rates from the Southern Illinois group, to base the rates from the Princeton-Ayrshire group 17 cents over the proposed rates applicable via the C. M. St. P. & P. from the Brazil, Indiana group, if that would result in rates from the Princeton-Ayrshire group 13 cents less than from Southern Illinois.

The present rate from the Boonville, Indiana group to Rockford, Illinois, for 39.5 miles greater distance is but two cents per ton higher than the rate from Southern Illinois. If the Commission approved the proposed rates from Southern Illinois and based the rates from the Boonville group 20 cents over the proposed rates applicable

via the C. M. St. P. & P. direct from the Brazil-Clinton, [fol. 2769] Indiana group, it would result in rates from the Boonville, Indiana group to Rockford, Illinois, 10 cents per ton less than the proposed rates from Southern Illinois, although the distance is 39.5 miles greater from the Boonville group than from Southern Illinois.

Mr. Zoll: That is all.
Exam. Trezise: Questions?
Mr. Wilkinson: Yes, sir.
Exam. Trezise: Mr. Wilkinson.

Cross-examination.

By Mr. Wilkinson:

Q. Mr. Hamilton, when you state that the suspended rates were published in line with the order in the most recent Beloit decision, you mean in the carrier's attempt to comply with that order by increasing the rates to Rockford rather than its alternative of decreasing the rates to Beloit?

A. That is right.

Q. Now, you have testified that, in your opinion, the former basis of publication of rates from Indiana on differentials over Brazil-Clinton should be terminated. Now, how are you proposing now to make the rates from Indiana, on differentials, over Boonville or under Southern Illinois or how? I didn't quite follow you on that.

A. I was proposing that because the distance from the Princeton group is practically the same as from Southern Illinois, that they ought to be on an equality; that those rates should not be lower than from Southern Illinois. [fol. 2770] Neither should Boonville.

Q. You don't think——

A. For considerably greater distance.

Q. You are not advocating that the rates from Brazil-Clinton be higher than from Springfield where they are substantially the same distance, are you?

A. Well, I think the distance warrants practically the same rates.

Q. Now, in your opinion does distance, should distance control or largely control this rate adjustment here?

A. Yes.

Q. If that is so, why does the Illinois Central Railroad publish a rate of $1.90 from its mines in the Linton-Sullivan group to Rockford, where the haul via your line direct is but slightly shorter than your haul from the Southern Illinois mines to Rockford?

A. The rates from the Brazil group to Rockford were published by the C. M. St. P. & P., and I guess you are all familiar with the circumstances of that publication, and we simply established the rates over the Illinois Central direct to meet the rates that were in effect via the C. M. St. P. & P.

Q. It was a competitive rate, then?

A. Yes, that is right.

By Mr. Zoll:

Q. The Milwaukee published not only from Brazil but [fol. 2771] from Linton, too.

A. I was speaking about Linton. We don't serve the Brazil group. He asked me about the Linton group; didn't you, Mr. Wilkinson?

Mr. Wilkinson: Yes.

[fol. 2772] By Mr. Wilkinson:

Q. And you found that if you were to participate in any traffic from the mines in Indiana that you served that you would have to get on to the same basis of rates with the Milwaukee mines in the Linton-Sullivan group, is that correct?

A. That is correct.

Q. And that was not affected by any competition from the mines which you serve in Southern Illinois?

A. I didn't quite get that.

Q. Well, you found that to move coal from Indiana, Linton-Sullivan group, you had to get your rates in line with the going rate from that group, the Milwaukee rate, if you were to move coal from that group, and that that was more important than having it in line with your Southern Illinois rate?

A. Well, I wouldn't express it that way, Mr. Wilkinson. The business that moved out of Indiana would move on the lower rate. If we wanted to handle any of it we had to have the rate, and it didn't affect Southern Illinois any

more to have the rate in via the Illinois Central as well a the Milwaukee than to have it via the Milwaukee alone.

Q. Now, you do not propose to change the present relationship as between the mines served by you in the Linton-Sullivan group and the mines served by you in Southern Illinois that exists today? That relationship is not changed under the suspended rates, is it, to Rockford and other points up there?

[fol. 2773] A. No, it is not.

Q. Nor is the relationship that exists today as between the mines on the Milwaukee Railroad in the Brazil-Clinton group and the Linton-Sullivan group to the destinations on its line changed under the suspended rate?

A. No.

Q. So that is it your opinion that if you changed the relationship of the rates from the other Indiana mines to those now existing from the Milwaukee mines and the Illinois Central mines, that there would be a trend of a change in the traffic from those other mines to this territory?

A. There might be, but if those rates are not on the proper basis, I don't think they should be continued indefinitely.

Q. Well, will it benefit, in your opinion, the carriers serving the mines in Princeton-Ayrshire and Boonville if the rates are placed on what you consider a proper relationship to Southern Illinois, if the effect thereof is to terminate the traffic from those mines to this territory?

A. Well, I don't know anything about terminating the traffic. As it stands today, the Princeton—the rates from the Princeton group to Rockford are 29 cents over the Brazil rates.

Q. On the Milwaukee?

A. On the Milwaukee. So if they were the same as Southern Illinois they would be 30 cents, and if they remained only 29 cents, it wouldn't change the situation at all as far as Princeton versus Brazil, Indiana, on the Mil-

[fol. 2774] waukee is concerned.

Q. So you don't think that the various changes which you are proposing would have any effect upon the movement of the traffic?

A. Well, I can't say that, whether they would have any effect or not.

Q. As a matter of fact, to many of these destinations you propose a widening of the differential as between Brazil-Clinton on the one hand and these Princeton-Ayrshire and Boonville groups on the other, do you not, over what exists today?

A. The basis that I have suggested would widen it, say, to Rockford, by one cent.

Q. Well, some of them are widened more than that, are they not, considerably more than that, 7, 9 cents?

A. I don't know what points you refer to.

Q. Have you found that since you put the rates from the Linton group to the same basis as the Milwaukee rates from that group that you are carrying more traffic to this territory than you did prior to the reduction in your rates?

A. No, I have not.

Q. It hasn't affected it?

A. Well, I haven't learned of any additional traffic that we are securing by it. There may be some but I haven't had any information about it.

Q. Does any coal move by your line direct from Linton [fol. 2775] Sullivan to any of these destinations?

A. You mean is there a movement there now.

Q. Yes.

A. I haven't the figures; I couldn't say.

Q. You don't know whether there is or is not a movement?

A. No.

Q. You don't know whether that reduction has been of any advantage to the Illinois Railroad or not?

A. Well, no, I can't say how much advantage it has been.

Q. Then why are you proposing to continue it?

A. As I stated before, it wasn't any effort on our part to change the situation down there when we had to comply with this order in the Beloit case. We simply proposed to make the same increase from all origin groups to Rockford so that the Beloit rates would not be reduced.

Q. Do I understand from that answer, Mr. Hamilton, that the sole basis for all of this proceeding is the desire of the carriers to prevent a reduction in the rates to Beloit?

A. No, not the sole basis. That is the reason for publication of the rates, and the testimony that has gone in here now, if the suggestions made by the Indiana and the Southern Indiana representatives should be followed, it

would mean a further reduction in the rates from Southern Indiana groups below the present basis as compared to Southern Illinois.

Q. Decrease the present basis to these particular towns [fol. 2776] that are under suspension here?

A. That is right.

Q. Not below the present basis that applies to all the rest of the surrounding territory?

Mr. Zoll: He said he was speaking of the suspended territory.

Mr. Wilkinson: That is all.

By Mr. Bather:

Q. So that, Mr. Hamilton, you could have complied with the order of the Commission by reducing the rate to Beloit 15 cents a ton, could you not?

A. Yes, we could, but we complied with the previous order in the Beloit case in reducing the rates to Beloit 50 cents a ton, and we couldn't see any good reason for a further reduction of 15 cents a ton.

Q. Would you say 50 cents a ton or 25 cents a ton?

A. 50 cents.

Q. So that in order to conserve the relatively small amount of revenue that you would have lost by reduction of the rate to Beloit, you elected to raise the rates to the heavier consuming points in Northern Illinois?

Mr. Zoll: I will object to that question. It is improper.

Mr. Bather: I don't see anything improper about it. I asked the question, he said that was the basis of the action taken by the carriers in publishing the rates.

[fol. 2777] Exam. Trezise: I think he can answer it, if he has an answer for it *if he has an answer for it.*

Mr. Zoll: All right. Bear in mind the implications, however.

The Witness: You say in order to——

Exam. Trezise: Do you want the question read?

The Witness: Yes, I wish you would. I kind of got off there.

Exam. Trezise: Then will you read the question, please, Miss Reporter?

(Question read.)

The Witness: I don't know what——

Exam. Trezise: Did you give him a foundation for that question?

Mr. Zoll: No, sir.

Exam. Trezise: For anything of that sort, that he implied in that question?

By Exam. Trezise:

Q. Would the amount be relatively small?

A. That was what I was going to say, about the relatively small amount. We felt, as we have testified here, that a further reduction to Beloit, Wisconsin, would inevitably result in demands for reductions to the surrounding territory or territory in Wisconsin, and therefore it would not be relatively small.

Q. All right, now, assuming it is not relatively small. Now, what is the rest of his question?

[fol. 2778] A. I thought I answered all of his question.

Mr. Bather: I think that answers my question, Mr. Examiner, in a general way.

Exam. Trezise: All right.

By Mr. Bather:

Q. Now, is it your opinion that a rate of $2.25 from Southern Illinois to Rockford is reasonable as compared with a rate of $2.15 from Southern Illinois to South Bend, Indiana?

Mr. Zoll: Mr. Examiner, I just want to remind everybody that this is rebuttal and all Mr. Hamilton did was state his position with respect to the differentials between the lower Indiana group. Now, of course——

Exam. Trezise: You are starting off on a new track.

Mr. Bather: I would rather withdraw the question, if it is not proper.

Exam. Trezise: Let's confine this examination to what he testified to in rebuttal. Otherwise, we never will get through, if we go over this ground over and over again.

Do you have some more questions, Mr. Bather?

Mr. Bather: No, I have no more; that is all.

Mr. Christiansen: I have a question.

Exam. Trezise: Mr. Christiansen.

By Mr. Christiansen:

Q. Mr. Hamilton, when you refer to the 50 cent a ton reduction in the first Beloit case from the Illinois and Indiana groups, you didn't mean to indicate that the 50 [fol. 2779] cent reduction had been made in the rate from the Fulton-Peoria District, did you?

A. I was referring to Southern Illinois. I had those figures in my mind when I said that. The rate was reduced from $2.75 to $2.25.

Q. And the Fulton-Peoria rate was reduced only 31 cents, isn't that right?

A. I haven't the figures before me on that.

Mr. Christiansen: Thank you.

Mr. Cardy: Just one question.

By Mr. Cardy:

Q. Mr. Hamilton, could you have complied with the order of the Commission by merely increasing the rate to Rockford without increasing it to all of these various points in Northern Illinois?

A. I don't see how it would be possible to do that, Mr. Cardy.

Q. That is based upon your construction of the order, I take it?

A. Well, the construction of the order is that the rates to Beloit should not be more than 15 cents over the rate to Rockford, but it would mean that an adjustment to Rockford would necessarily call for an adjustment to the intermediate and surrounding territory in Northern Illinois.

Q. Just one other question: There has been some question as to the number of rates or points of destination that were increased in this proceeding; in other words, anywhere from 50 to 350. To clear up the record, can you [fol. 2780] state approximately how many points in Northern Illinois are proposed to be increased?

A. Well, I haven't that figure before me but I believe Mr. Nelson has the figure and he is going to be on the stand later. I think he can tell you that.

Mr. Cardy: Thank you.

Exam. Trezise: Any further questions?

Mr. Stadell: I just have a couple of questions, Mr. Examiner.

Exam. Trezise: Mr. Stadell.

By Mr. Stadell:

Q. You stated in answer to a question by Mr. Wilkinson that establishment of the rates sought by the Indiana interests by the Southern Railway from the Princeton and Boonville mines to the Northern Illinois territory involved would result in further reductions in those rates as compared to the rates from Southern Illinois. Wouldn't it also result in further reductions in the rates from the Southern Indiana groups as compared to the rates, present rates from all of the other Illinois groups, Belleville, DuQuoin, Centralia and the balance of them?

A. Why, yes, it would mean the same relationship to the other groups that it bore to the Southern Illinois groups.

Q. Now, the Illinois Central serves other groups in Illinois besides the Southern Illinois group, does it not?

[fol. 2781] A. They do.

Q. What other groups?

A. They serve the DuQuoin, Belleville, Centralia, Springfield, Northern Illinois.

Q. And you serve a number of——

A. Peoria.

Q. And it also serves a number of destinations involved in Northern Illinois?

A. That is correct.

Q. Does the Illinois Central participate in the present rates, participate with the railroads, origin railroads serving the Princeton and Boonville, Indiana groups in the present rates from mines in those groups to points in Northern Illinois?

A. They do.

Q. And as I understand your position here, it is that the Illinois Central hopes to participate either as an intermediate or delivering carrier in these rates that have been suggested or requsted by the Southern Railway and the Indiana interests from the Princeton and Boonville groups to those destinations?

A. We object to the basis that has been proposed.

Q. You object to participating with those railroads in that basis, that reduced basis of rates?

A. Yes. We object to having that basis applied.

Q. Did you see the exhibits placed in the record by Mr. Rozene, showing the relative importance of the Princeton and Boonville, Indiana groups from the standpoint of tonnage shipped in comparison with the tonnage shipped from [fol. 2782] the other groups in Illinois and Indiana?

A. Yes, I did.

Q. You are familiar, are you, with the steps that have been taken since 1930 to place the mines that were formerly on the Princeton basis of rates on the Boonville basis?

Mr. Wilkinson: Now, I object to that. We were cautioned here a few moments ago to stick to Mr. Hamilton's direct examination.

Mr. Stadell: Well, that was a part of his direct examination.

Mr. Wilkinson: If we are going back over the whole thing again, then we will have to—I am afraid we will have to recross examine on Mr. Stadell's further direct.

Exam. Trezise: Can you read the question back there, please, Miss Reporter?

(Question read.)

Exam. Trezise: Yes, he talked about the relationship there between Boonville and the Princeton Ayrshire. What is the objection?

Mr. Wilkinson: Well, he didn't testify about any efforts to place Boonville on the Princeton basis or Princeton on the Boonville basis.

Mr. Stadell: All right, it is already in the record; I will withdraw the question, to prevent a lot of argument, to [fol. 2783] save time, Mr. Examiner.

Exam. Trezise: Do you have some more questions?

Mr. Stadell: I think it is clear enough in the record already.

Exam. Trezise: Do you have any more questions?

Mr. Stadell: Beg your pardon?

Exam. Trezise: Do you have any more questions?

Mr. Stadell: I just have—I think that is all.

Exam. Trezise: All right.

By Mr. Kaylor:

Q. Mr. Hamilton, you testified in answer to a question just a minute ago of Mr. Stadell that you knew of the movement. Did you or did the railroads, as far as you know, make an effort to determine the amount of increased revenue that was derived from basing the rates on carriers' proposal to Northern Illinois versus the Wisconsin points, or would there be an increase in rates?

Mr. Zoll: Mr. Examiner——

The Witness: Well, there is an exhibit in this case that shows an estimate of the loss the carriers would have.

Mr. Zoll: I believe that is Exhibit 5, if I recall, put in at the first hearing.

The Witness: If this basis is not approved.

Mr. Kaylor: It is in the record?

Mr. Zoll: Yes, sir.

The Witness: Yes, sir.

[fol. 2784] Mr. Zoll: It went in at the March hearing, as I remember.

Mr. Kaylor: All right.

By Exam. Trezise:

Q. Mr. Hamilton, what are the Commissions to assume from your answers about this terminating traffic? I don't understand what you meant by the answer that you gave. Do you think that the competitive situation is such between either the origin groups in Indiana, as has been testified to here, or the competitive situation between Indiana and the Illinois groups is so important as a principle that distance should be ignored to the extent that lower rates should apply for longer distances than for the shorter, average distances, I mean?

A. No, sir, I do not. Now, the only reference that was made to the lower rate for the longer distance by Mr. Wilkinson's question was on coal originating in the same district, where our route direct by the Illinois Central from the Linton group was longer than the route in connection with some other line.

Q. Well, if the principle that we have just gone over here is applied, if it terminates, if that principle results in terminating traffic, what do you think about terminating it?

A. Well, maybe I don't exactly get it, but if the distances between two groups, that one group is longer distant than the others, I don't think those rates should be made lower than the short distance.

Now, this other case was what happens from any origin [fol. 2785] group where one road is short and another road has a longer route.

Q. What significance did you undertake to apply to this term "differential"? You said that if one group is a base group here, you said similar principles should be applied, I imagined, in Illinois; I don't know just for sure what you meant. What do you mean by pointing out differentials and base groups? Does that mean that a rate goes up or down when you say the one word or say the other?

A. Oh, I wouldn't say that. I would say it is a question of the distance that should control, and I simply tried to show that the distance between Southern Illinois and Springfield was practically the same as it was between Princeton and Brazil and that there ought to be the same measure of rates between those groups.

Q. And if the average distance between one group be the same as from another, would you say that the rate to a given destination should be higher from the one than from the other because you called one a base group and the other a differential group, provided the transportation conditions are the same from both groups?

A. No, sir, I would not say that.

Exam. Trezise: Any further questions?

Mr. Zoll: Yes.

Redirect examination.

[fol. 2786] By Mr. Zoll:

Q. As I understood the Examiner's question, this was the problem that he posed: do you think that in the case of two origin groups equally distant from one destination, that the rates from one group should be lower than from the second group if making them the same would result in the one group losing business or being unable to ship to that destination?

A. Well, that wasn't involved in the Examiner's questions. He said nothing about the shipping. His was the

question about whether the rates should be lower for the same distance, and I said no.

Q. Well, do you want to answer my question?

A. Well, as far as your question is concerned, I couldn't tell whether it would change the movement or not.

Mr. Wilkinson: May I ask a question?

By Mr. Zoll:

Q. Your position is, as I understand, Mr. Hamilton, that both groups should be given reasonable and lawful rates, based on their distances and their transportation conditions? Now, if that result in one group shipping more coal than another, that is something that is outside the Commission's province to take care of in the prescription of rates?

Exam. Trezise: To help you, Mr. Zoll, I think Mr. Hamilton answered the Examiner's first question about this competitive principle, that distance shouldn't be sacrificed in a case of this kind; that the competitive situation wasn't so important, he said, that we should charge higher rates for [fol. 2787] shorter distances. I think that was his answer to my question; I don't know whether that is the same question you asked or not.

Mr. Zoll: If your question was answered, that was all I was interested in.

Mr. Wilkinson: Let me find out:

Recross-examination.

By Mr. Wilkinson:

Q. Mr. Hamilton, you told me a short time ago that you published rates from the mines served by you in Linton-Sullivan in order to be on a competitive parity with the mines served by the Milwaukee and with that line in hauling coal to Rockford, did you not?

A. Yes, from the same origin group.

Q. Yes. Now, will you tell me what difference exists in that competitive principle as between the Southern Railway serving the Sunlight mine in the Boonville district, making rates on which it may move some traffic in competition with Princeton or Southern Illinois? What is the dif-

ference in the transportation situation because you call the Sunlight mine a group or whether you call it a point in a group?

A. Well, the rates are published on a group basis, and if you are going to reduce the rates from one group to an equality with the rates from another group that is a shorter distance, I do not consider that to be proper.

Q. Now, using the same comparison that the Examiner has used, are you going to make and use a different prin-
[fol. 2788] ciple for the construction of rates because you designate one a group, any more than you designated one a base group, or are you going to make competitive rates from the points of origin you serve to the points of destination you serve?

A. I do not believe that the fact that you call one a base group and the other one not a base group should affect the measure of the rates.

Q. Well, should the measure of the rate be affected because you call one origin point a group instead of a point; point of origin?

By Exam. Trezise:

Q. Do you understand that?

A. Yes, I understand what he means. I know what he is driving at.

Exam. Trezise: All right.

Mr. Wilkinson: Do you, Mr. Examiner?

Exam. Trezise: I think you are talking about distance rates from all points.

Mr. Wilkinson: No, I am just talking about the same method of making rates.

Mr. Stadell: That is right.

The Witness: That was not because the Examiner said "distance," but then that was the answer I was going to give to you.

By Mr. Wilkinson:

Q. You think, then, that the——

[fol. 2789] A. The distance should govern.

Q. You think that the question of making comparative rates as you have done from your mines in the Linton

Sullivan district should go into the discard as soon as you put two mines together and call them a group?

A. Now, that is entirely——

Q. Is that what I am to understand from your answers to the Examiner's questions?

A. You are bringing another phase into this. As long as you are having groups, origin group rates, that is one thing. Now, if you are going to limit the rates in those groups to distance alone, then you have nothing left but a mileage basis, and I don't believe that any of the operators want a mileage basis of rates established.

Q. I might ask, has there been anything that Indiana has put in, the evidence Indiana has put in or any of the questions that I have asked that you have heard that indicated that Indiana interests wanted rates made on a mileage basis solely?

A. Nothing except this last question that would tend in that direction.

Q. On the principle of rate making?

A. Yes. Just this last question that you asked me is the only one.

Q. Let me see if I can phrase this so we will just get to one point, Mr. Hamilton. Do you think that because we have group rates that the matter of competition should [fol. 2790] not receive any consideration as between groups whereas within groups the competitive situation should be given consideration?

A. Well, I didn't make that statement. Of course——

Q. I am asking you if you think that.

Mr. Stadell: I think Mr. Wilkinson is confused in his question. He is confusing what a railroad might do itself in meeting competition and what the Commission should compel the railroads to do.

Mr. Wilkinson: I am not at all confused in my question, Mr. Stadell. I asked the witness an opinion as to two principles of rate making and his opinion. He has had long experience.

The Witness: I will have to have that question read.

Exam. Trezise: Read the question.

(Question read.)

The Witness: I don't think that a question of competition can be discarded entirely, but I do believe that where the distances are greater, that is the principal factor to be used in measuring the rates.

Exam. Trezise: Mr. Wilkinson, are you going to ask him--he doesn't believe in the mileage rates from a point. Now, the other question is——

Mr. Wilkinson: I will get to that in just one more question.

[fol. 2791] Exam. Trezise: All right, proceed.

By Mr. Wilkinson:

Q. Mr. Hamilton, you are and have been familiar with this rate adjustment in this territory for a great many years, have you not, this differential adjustment on coal?

A. For some time.

Q. Now, isn't it a fact that the differential as between two given groups is constant in this territory, Northern Illinois, Wisconsin, Iowa and all of it, irrespective of changes in the distances between the groups to a particular destination? That is a fact, isn't it?

A. Well, they are not constant, no. They are not constant to all points.

Q. And those variations in distance do not affect the differential adjustment? That is, if Springfield remains 30 cents over Southern Illinois, whether it is 106 miles shorter distance or 140 miles shorter distance to a given destination, isn't that true?

A. Well, I don't know about the distances that you refer to. The differences between the rates are not constant. They are not the same to all the territory.

Q. And that is largely because of competition as between the origin groups and the destinations and the carriers serving those groups, isn't that a fact?

A. Well, it is principally due to a difference in the mileage [fol. 2792] into the different destinations.

Q. Just what do you mean by that? A difference in the average mileage of all the carriers serving the group or what difference in mileage?

A. That is the way they are usually arrived at.

Q. Well, as a matter of fact, weren't these differentials arrived at many, many years ago between Springfield and Southern Illinois, for example?

A. Yes. They have been in effect for a long time.

Q. And don't you know, or do you know whether or not mileage had any great play in the determination of those differences?

A. I think it had a good deal to do with it.

Q. No matter whether there was 30, 40 or 50 miles' difference in the spread in the mileage between Springfield to one town and to another, the same 30 cent differential existed? Now, how much mileage has to come into play before you give it consideration?

A. I couldn't tell you.

Q. You don't know when to start on this giving mileage consideration?

A. When you started on this proposed reduction in the rates from the Southern Indiana groups, you disregard the mileage.

Q. Just when we started? I suppose you mean by that Indiana. Now, did Indiana start anything on this question of mileage until you reduced your rates from the Illinois origins to these destinations in [fol. 2793] 1930?

A. That isn't what I had in mind, Mr. Wilkinson. This is what I meant: that we proposed here to continue the same basis and make the same increase, but you are proposing that the rates from the Southern Indiana groups be reduced compared to the Illinois by adjusting the basis with relation — Princeton and Boonville to Brazil.

Q. Well, could you put it another way and say that Indiana is seeking a restoration of the old relationship by increasing the Illinois rates? That would bring about the same result, would it not?

Mr. Zoll: Aren't we getting a little bit off the track?

Mr. Stadell: Yes, we are not only doing that, Mr. Examiner, but we are arguing with the witness.

Mr. Wilkinson: My question started as a result of the Examiner's questions, I might say.

Mr. Stadell: Arguing with the witness here about restoration of differentials when the record shows it isn't a restoration at all.

Exam. Trezise: Well, what was the last question to which there was an objection?

(Question read.)

Mr. Wilkinson: You said we were seeking to reduce our rates from Indiana. I asked him if what we were seeking couldn't be accomplished the other way.

[fol. 2794] Exam. Trezise: Well, this question of differentials, he testified about that to some extent. I don't know how far he went.

Mr. Zoll: I will object to the question on the ground that counsel is asking my witness to construe counsel's position.

Mr. Wilkinson: No, he stated what we were trying to do.

Mr. Zoll: He shouldn't have done that.

Mr. Stadell: Your question is vague and indefinite and misleading, because it doesn't purport to indicate what differentials are to be restored. If the question refers to some alleged differentials existing in 1920 which the Commission told the railroads to restore, then it is asking for something entirely different than if it is referring to the differentials that the Indiana people have put in here as having been made effective July 19, 1925.

Exam. Trezise: If the witness understands it, he may answer it.

The Witness: I do not understand that. Your proposal here would not restore the basis in effect from the Southern Indiana groups but, in effect, would cause a new adjustment by reducing those rates as compared to Illinois.

By Mr. Wilkinson:

Q. Illinois present rates?

A. The proposed rates that are under suspension.

Q. Mr. Hamilton, is it not a fact that immediately prior to [fol. 2795] the reductions from Southern Illinois to Rockford, Freeport and Dixon, which occurred, I believe, in 1930, and for at least five years prior to that reduction, the rates from Boonville had been 10 cents under Southern Illinois to Rockford, Freeport and Dixon, and the rates

from Princeton-Ayrshire 10 cents—13 cents under Southern Illinois to Rockford, Freeport and Dixon?

A. Well, I haven't those figures in my mind.

Q. You don't remember them?

A. I know that Brazil was the same as Springfield and these other groups I believe were differentially related; however, the distance from Boonville is considerably greater than it is from Southern Illinois.

Q. Yes. Now, Mr. Hamilton, was not Boonville in the same place in 1925, 1926, 1927 and 1928 as it is today? They haven't moved Boonville, have they?

A. No.

Q. Isn't Southern Illinois in the same place today as it was in 1925 to 1930, inclusive?

A. Yes.

Q. Has there been any change in the location of Boonville, Princeton-Ayrshire and Southern Illinois that you know of in the last thirty years?

A. No change——

Q. Same geographical——

[fol. 2796] A. No change except possibly a little additional new mine or something like that, that would be all.

Q. Yes. And those differences in distance, with the fluctuation of a mile or two here and there on account of routing, have been there since those mines were opened and these railroads served them?

A. Well, I couldn't say the exact distance.

Q. I say with minor fluctuations. Isn't that true?

A. I presume so.

Q. So that we don't have, as far as distance is concerned, any different situation today than we have had for twenty-five, thirty years?

A. Not as far as distance; not as far as the approximate distance is concerned.

Q. And those approximate distances today, shown on this record, are substantially the same as they were in the record in Docket 25595, I. & S. Docket 4368, are they not, substantially the same?

A. I suppose so. I don't know what the figures were at the time those other cases were handled. However, it doesn't get away from the fact that you are proposing

lower rates for a longer distance from the Southern Indiana mines than apply from Illinois.

Mr. Wilkinson: All right, that is all.

Mr. Cardy: Just one question.

[fol. 2797] Exam. Trezise: Mr. Cardy.

By Mr. Cardy:

Q. Mr. Hamilton, if you increase the rates from the Southern Illinois district to Rockford 17 cents, which was the reduction referred by the Illinois Commerce Commission, and at the same time increased the rates from the Linton and Brazil-Clinton district via the Milwaukee and the Illinois Central, would not that restore the old relationship which existed many years prior to 1930 between Illinois and Indiana, all rates? Can you answer that yes or no?

A. I don't see how that could be done.

Q. Well, if it could be done it would restore the old differential basis which you know existed many years prior to 1930, isn't that true?

Mr. Stadell: The witness has already said it wouldn't.

By Mr. Cardy:

Q. You can say yes or no; you can answer that yes or no.

Mr. Zoll: I will object to that question on the ground that the witness has said the hypothesis is not true.

Mr. Cardy: Wait a minute. Is there any objection to that question, Mr. Zoll? Is there an objection to it?

Mr. Zoll: Yes.

Mr. Cardy: What is the objection? I have asked him to answer yes or no.

Mr. Zoll: You have asked him a question on a hypothesis which this witness says *it* is not true.

[fol. 2798] Mr. Cardy: I didn't understand that he said it wasn't true. He said it couldn't be done. We all know rates can be changed by the carriers. If he doesn't want to answer the question yes or no, I won't press it.

The Witness: Well, I will answer your question, the way the question was put, no.

By Mr. Cardy:

Q. And that is the reason that the carriers cannot or do not want to publish the basis of rates that went into effect prior to 1930, is that the reason?

A. I have explained fully the reason that we published these rates.

Mr. Cardy: All right, I won't press it. I think the record is clear.

Exam. Trezise: Do we have any further questions?

Mr. Stadell: I just want to ask a couple of questions of Mr. Hamilton.

Exam. Trezise: Mr. Stadell.

By Mr. Stadell:

Q. Mr. Wilkinson asked you, Mr. Hamilton, if the differentials between the Indiana groups on the one hand and the Illinois groups on the other weren't considered. What are the differentials between the Indiana groups, and take the Brazil-Clinton group as illustrative and the Southern Illinois group to Chicago, Chicago Switching District?

A. Well, I haven't the figures before me but the Brazil rates to Chicago were reduced in the ICC 16340.

[fol. 2799] Mr. Wilkinson: Off the record, I didn't ask him about Indiana.

Mr. Stadell: I understood you to ask him a question about the differentials being constant.

Mr. Wilkinson: No, I didn't. I didn't ask him about Indiana and Illinois.

By Mr. Stadell:

Q. Isn't the differential between the Southern Illinois group on the one hand and the Brazil-Clinton group on the other to Chicago 40 cents?

A. I believe so. My recollection is the rate was ordered in — $1.55 and it has since been increased 10 cents, which would make $1.65, and Southern Illinois is $2.05.

Q. Do you know what it is in Eastern Wisconsin?

A. No.

Q. You don't know, do you, whether the routes from the Boonville and Princeton groups from the Southern Illi-

nois groups to points in Northern Illinois today are the same as they were thirty years ago?

A. No, I couldn't tell you that.

Q. Or whether they are the same now as they were in 1925?

A. I couldn't say.

Q. Or whether the mileages are the same?

A. If the routes were not the same the mileages wouldn't be the same.

Mr. Stadell: That is all.

[fol. 2800] By Exam. Trezise:

Q. Back in 1925, you were in this sort of business then, weren't you, coal, figuring the rates and the distances?

A. Yes, I was in a coal office at that time.

Q. And when you compared those rates and distances back in 1925, you always compared the average or the short tariff routes from each point in the group just as you do now, or did you?

A. Yes, sir.

Q. Did you ever hear of distinguishing the difference between the short tariff route and the shortest tariff route until possibly the Midland case came up here a few years ago?

A. That is about the time that I first heard of it.

Q. Then back in 1925 you didn't make those distinctions that the Examiner mentioned here as between the average distances from these groups, did you? You figured the distances from Herrin, Illinois, and then you picked out some point, some place else, didn't you, to determine your distances?

A. Well, we figured the average from the group.

Q. You did figure the average from the group?

A. Yes, sir.

Q. But you didn't take the average of the short tariff route and compare it with the average of the short tariff route from another group, did you, and if you say yes I am going to ask you what case before the Interstate Commerce Commission that was in.

[fol. 2801] A. Well, I will see if I understand your question. Did we take the short tariff route——

Q. And compare it——

A. From one group?

Q. Yes.

A. The average short tariff route?

Q. Yes.

A. And compare it with the average short tariff route from another group?

Q. Yes, sir.

A. Well, I think——

Q. Back in 1925. Well, let's just drop that here; I am afraid I am taking up too much time.

Mr. Cardy: Just one question on that:

By Mr. Cardy:

Q. Mr. Hamilton, isn't it a fact that in the establishment of rates in Illinois, between Illinois and Indiana intrastate, that the average weighted haul was used first in the 5 per cent case and second in the 15 per cent case? Isn't that the mileage, the basis that was used in constructing these rates?

A. Not that I know of.

Mr. Cardy: All right.

Exam. Trezise: Do we have any further questions?

By Mr. Kaylor:

Q. Mr. Hamilton, you were with the Illinois Central at [fol. 2802] the time the Illinois Commerce Commission decided the Rockford-Freeport cases, were you not?

A. Yes, sir.

Q. And what position did the Illinois Central take in those cases with respect to appeals, if they did take any?

A. With respect to what?

Q. Appealing those cases.

A. Well, they joined the other carriers in the 13th Section——

Q. I mean before the Illinois courts.

A. I couldn't say. I never appeared before the Illinois Courts.

Q. Your method of seeking relief then was to file a 13th Section case with the Interstate Commerce Commission, is that what you meant by that answer?

A. Yes, that is what I said, that the Illinois Central joined the other railroads in a 13th Section petition.

Q. What caused the railroads to do that? Was it in their opinion a loss due to revenue?

A. Yes.

Q. Or to differentials?

A. It was revenue. There were some 28 cases about that time that were involved in that 13th Section petition.

Q. You didn't give consideration to the rates beyond Rockford-Freeport to the Wisconsin points, did you?

A. I don't know just what you mean by giving consideration to it. The rates from Illinois had been ordered [fol. 2803] reduced and causing a great loss in revenue, and we appealed to the Interstate Commerce Commission to bring the rates back to where they were before they were reduced.

By Mr. Bather:

Q. But prior to that, you took an appeal to the Circuit Court of LaGrange County, didn't you, against the order of the Illinois Commerce Commission?

Mr. Zoll: He said he didn't know.

The Witness: I didn't have anything to do with any court proceedings, so I am unable to answer that.

By Mr. Kaylor:

Q. What was the docket number of the case you mentioned a while ago?

A. 23130, if you are talking about the 13th Section case, ICC 23130. I don't know the Illinois number. There were a great many Illinois orders involved in that appeal.

Exam Trezise: Is that all?

Mr. Kaylor: Yes.

Exam. Trezise: If there are no further questions, you may be excused, Mr. Hamilton.

Mr. Zoll: That is five minutes on direct.

Exam. Trezise: We will take five minutes' recess, and let's try to get through, if we can.

(Recess taken.)

Exam. Trezise: Are you ready to proceed?

Mr. Hunter: May we mark these exhibits off the record? [fol. 2804] Exam. Trezise: Yes.

(Discussion outside the record.)

(Exhibits 115 and 116, Witness Kuhls, marked for identification.)

Mr. Hunter: We are recalling Mr. Walter H. Kuhls for rebuttal.

WALTER H. KUHLS recalled:

Direct examination.

By Mr. Hunter:

Q. Are you the same Mr. Walter H. Kuhls, the witness who testified in this proceedings heretofore?

A. Yes, I am.

Q. Mr. Kuhls, will you proceed with this exhibit marked 115 for identification and make whatever comment you think necessary.

A. That is a one-page statement showing the coal-producing companies and their production in 1925 and 1926 in Fulton County and Henry County. While the heading also refers to Will County and Knox County, it will be noted there were no operating rail mines in those two counties in 1925 and 1926.

This exhibit reflects the situation in the Fulton County group and in Will County at the time the carriers had before the Commission the so-called Blue Book Adjustment, and to bring about the effectiveness of that adjustment, they made some compromises in respect to the rates from the Fulton County group and from Will County. Those [fol. 2805] sacrifices were made because of the small production in these fields at the time.

(Exhibit 115, Witness Kuhls, received in evidence.)

In Exhibit 116 I have shown the major coal-producing companies in Will, Henry, Knox and Fulton Counties from 1924 through 1942. As the exhibit shows, several of the very large producing companies did not begin to operate in these counties until 1933, 1936, 1937 and even 1942.

To this exhibit should be added the Vulcan mine of the Midland Electric Coal Corporation, which opened in 1942, and according to Mr. Christiansen's testimony produced between 400,000 and 500,000 tons that year.

(Exhibit 116, Witness Kuhls, received in evidence.)

Q. Does that complete your explanation of those two exhibits?

A. It does.

Q. Mr. Kuhls, now, directing your attention to pages 3 and 4 of Mr. Rozene's statement on direct examination in which he discussed at considerable length what the Commission did in Docket 23130, have you any comments to make with respect to that testimony of Mr. Rozene?

A. His comments about what was before the Commission in this case, what the Commission did and what it said, leaves the impression that, in my mind, at least, that the Commission said that all the rates from Indiana were [fol. 2806] on a low level. That is not a fact, when the Commission's decision is examined; and it can be further shown that the Commission was laboring under a misapprehension as to the level of the rates when they referred to the rates they did refer to.

On page 549 of 182 ICC, the last paragraph on that page, the Commission said: "While it is evident that a number of the assailed rates from Illinois groups to Rockford, Freeport and Dixon are well below the reasonable level of rates in this territory, that appears to be true also of most of the rates from the Indiana groups to the same destinations. For example, the rate from the Brazil-Clinton group to Dixon is only 66.5 per cent of the Holmes and Hallowell scale, which is the same percentage of that scale as is reflected by the assailed rate from Southern Illinois to Dixon."

The percentage figure mentioned by the Commission in connection with the level of the Brazil-Clinton rate was based on an average distance from the entire Brazil-Clinton group of 260 miles, but the percentage of the rate reflected by the assailed rate from Southern Illinois was based on the short rate-making mileage from Southern Illinois to Dixon of 297.7 miles. Had the Commission compared like with like and used the short rate-making distance from Brazil-Clinton, the percentage of the Holmes

and Hallowell scale would have been 72 per cent instead of 66½ per cent, or 6 per cent higher than shown by them. [fol. 2807] Now, as to the next comparison the Commission makes from Brazil-Clinton to Freeport, 67 per cent of the scale as compared with 64 per cent from Southern Illinois to Freeport and 66 per cent from Southern Illinois to Rockford, the Commission again used the shortest rate-making line from Southern Illinois to Freeport and Rockford, whereas they used the average of the short tariff routes from all of the mines in the Brazil-Clinton group. Had they compared like with like they would have used a short-line distance of—no, they would have used an average of 289 miles from the Southern Illinois group, which would have made the—pardon me. They would have used——

By Mr. Stadell:

Q. Aren't all those mileages shown on the report, Mr. Kuhls?

A. Yes, they are all shown in the report.

Q. Can we put that in the brief?

A. No, this is testimony.

Mr. Stadell: It is all in the report. All you are doing is reading out of the Commission's report.

Mr. Hunter: He is refuting, Mr. Stadell, the argument that Mr. Rozene was permitted to put in his testimony.

Mr. Stadell: What I am getting at, all you are putting in the record here is what you are reading from the Commission's report in Docket 23130.

A. No, I am supplying the mileage figures so that the comparison between Southern Illinois and Brazil-Clinton [fol. 2808] group would be on a common basis.

By Mr. Stadell:

Q. Where are you getting the mileage figure, first, so we will be clear on that?

A. From the exhibits in the case.

Q. This case?

A. Oh, no; 23130.

By Exam. Trezise:

Q. Well, you have about completed your statement, haven't you?

A. Yes, just about. Instead of the Brazil-Clinton rate to Freeport being 67 per cent, it would have been 72 per cent.

Q. You said that once, didn't you?

A. No.

Q. Or is that something new?

A. No, this is to Freeport. I was talking about Dixon before.

Exam. Trezise: Oh, I see.

The Witness: And to Rockford, the Brazil-Clinton group rate would have been 77 per cent instead of 67 per cent. The figures that I gave, that is the mileage figures, were taken from Exhibit No. 335 in 23130 and reproduced in I. & S. 4833 as Exhibit 21.

By Mr. Stadell:

Q. Whose exhibit was that, do you know, Mr. Kuhls, offhand?

A. No, I do not.

Q. You don't know whether it was an exhibit presented by the Indiana operators in that case, that is the Exhibit [fol. 2809] 335 you referred to?

A. No, I think that was the Illinois exhibit. It shows the average from the Southern Illinois group, whereas the Commisison used the mileage via the short rate-making line.

By Mr. Hunter:

Q. Mr. Kuhls, referring now to page 30 of Mr. Rozene's prepared statement on direct examination, where he commented about what he termed the further reductions of the Milwaukee Railroad in rates from its Indiana mines, have you any comments with respect to that?

A. Well, he charges here that the Milwaukee Railroad is attempting to further reduce the rates from Indiana. He made the same charge yesterday on his redirect.

Now, that charge can't be substantiated by the record in this case. There are 173 destinations involved in these proceedings. The mines on the Milwaukee Railroad in

the Brazil-Clinton and Linton-Sullivan district and, in fact, all the mines in that district, are not getting a single reduction to these 173 destinations. On the other hand, Southern Illinois is getting reductions to 36 destinations. Southern Illinois is getting increases to 78 destinations, whereas the mines on the Milwaukee Railroad and all mines in the Brazil-Clinton, Linton-Sullivan groups are getting increases to 96 destinations.

Q. Now, Mr. Kuhls, will you refer to Exhibits 35 and 38 prepared by Witness Rozene. Have you any comments with respect to those exhibits?

[fol. 2810] A. In Exhibits 35 to 38, inclusive, Mr. Rozene shows the shortest tariff route distances from all shipping points named in tariffs at Lake Superior. He shows the Holmes and Hallowell scale rates, the percentage of the Holmes and Hallowell scale rates and also the percentage of the 26558 scale rates to a number of destinations in Southeastern Minnesota and in Northwestern Iowa.

The situation depicted by Mr. Rozene's exhibits exists only to this small territory which Mr. Rozene had to pick out in order to make the showing. If he had used the entire Holmes and Hallowell scale territory, an entirely different picture would be presented. All of the destinations used by Mr. Rozene are located south of the line of the Milwaukee Railroad from Minneapolis to Aberdeen, South Dakota. Now, that territory is the territory to which rates were reduced from Lake Superior docks to meet rates published from Illinois, and it is also the territory in which natural gas competition exists and the mines serving Lake Superior docks have reduced rates to meet gas competition, the same as have the lines serving Illinois and Indiana.

As a matter of fact, even remaining within the territory that Mr. Rozene picked out, it will be found that a number of the rates within that same territory are on basis of the full Holmes and Hallowell scale from Duluth, such as Sioux Falls, Watertown, Yankton, Viborg and Huron.

[fol. 2811] When you go into the territory north of that picked by Mr. Rozene, where your direct east and west lines operate, with few exceptions all the rates are on basis of the full Holmes and Hallowell scale. The exception is at Fargo, North Dakota, and intermediate points where such rates were published to meet or forestall natural

gas competition and to meet lignite competition from North Dakota mines moving into Fargo by truck.

I have made a study of the territory north of the line of the Milwaukee from Minneapolis to Aberdeen, taking 19 representative points, and I find that with four exceptions the rates on large coal—as a matter of fact, the same rate applies on large coal and fine coal—the rates are on basis of the full Holmes and Hallowell scale, and including the excepted points, the rates are on basis of 102.1 per cent of the 26558 scale. So, generally speaking, the rates within the Holmes and Hallowell territory are not lower, generally, than the full Holmes and Hallowell scale, using the mileage from Duluth as the Commission used in 69 ICC 11.

Duluth and Superior combined handle between 6,000,000 and 9,000,000 tons of coal annually, and all the other dock ports used by Mr. Rozene, including Ashland, handle less than 1,000,000 tons. Duluth and Superior have about an equal dock capacity but the bulk of the coal from Superior moves to Wisconsin destinations on the Wis-
[fol. 2812] consin intrastate rate level, whereas the great bulk of the Duluth tonnage moves west to Minnesota and North and South Dakota. Therefore, in my opinion, it is proper to use the mileages from Duluth in measuring the rates to Minnesota and the Dakotas, also Northern Iowa. And on that basis it cannot be said that the rates as a general thing are lower than the full Holmes and Hallowell scale.

Q. Does that complete your comment on Mr. Rozene's testimony?

A. Yes, it does.

Q. I would like to direct your attention, then, to a request of Mr. Stadell that you furnish the names of the mines and the operating companies in the so-called Bedford district. I think there were a few mines there that took a rate of 7 cents over Linton. Did you endeavor to develop that information?

A. Yes, and I find that there are no mines operating at those several origins in the vicinity of Bedford, and there has been no coal shipped therefrom in the past three years; and as stated previously in the record, instructions have been given to our tariff department to cancel the origin

points from the tariff naming rates to Chicago and the Northwest.

Q. Have you anything further?

A. I would like to call attention to a matter in Exhibit No. 4, Section I, page 9, which is a rate history to Rockford, Illinois. Line 12 shows that the rate from Atkinson to Rockford was reduced 14 cents a ton, from 154 to 140, and I wish to state that the 140 rate was published by [fol. 2813] the Milwaukee Railroad in error and no change was made in the rate from Atkinson to Rockford in connection with the C&NW Railroad as destination line. That error is carried through to the end of the history and where the Atkinson rate appears as $1.70 under suspension, the rate, had not that error been made, would be $1.84, and it would be our purpose to restore the Atkinson rate to its proper basis by increasing it 14 cents a ton.

Q. What do you mean by that term "proper," Mr. Kuhls?

A. Well, I think that when you change a rate by mistake, just an error on the part of the tariff compiler, that it is not a proper rate.

Q. Even though it may have been in effect for some years?

A. Well, when he made the mistake it wasn't in effect at all, of course, until after he made it.

Q. Have you anything further?

A. Yes, I have some correlative remarks to make in connection with that, if I can find the page I want.

As confirmation for the statements I just made, if you will refer to Section IV of Exhibit 4, page 3, you will find that the present rate from Atkinson to Beloit appears as $1.94, being based 15 cents per ton over the present basis at Rockford of $1.79. Actually, however, the Milwaukee Railroad, in complying with the order in the Beloit case, had to make Beloit 15 cents over Rockford and there- [fol. 2814] fore reduced the rate from $1.94 to $1.80, inasmuch as the suspended rate to Rockford is $1.65; and that is the only reduction that is proposed in this entire adjustment, namely, rate from Atkinson to Beloit of $1.80 by reason of the erroneous publication from Atkinson to Rockford.

Mr. Hunter: You may cross examine.

Exam. Trezise: Now, let's see, before we ask questions.

By Exam. Trezise:

Q. It is your understanding, is it, that Mr. Rozene made some contention that the rates from the Head of the Lakes to this Holmes and Hallowell territory are generally lower than the full H. & H. scale. You intimated——

A. Yes, he made that contention.

Q.——that you thought he had made that contention.

A. Based on the rates to a particular part of the territory which he had to pick out to make that showing.

Exam. Trezise: Go ahead.

Cross examination.

By Mr. Christiansen:

Q. Mr. Kuhls, therefore the rate at least from Atkinson to Beloit was involved in I. & S. 1539, isn't it?

A. It is.

Q. And Beloit, therefore, is an affected point from Illinois origin groups as well as—instead of the compared point, isn't that right?

[fol. 2815] A. In so far as Atkinson is concerned.

Q. And when you change the rate from Atkinson you change the differential relationship from all other origin groups in Illinois by narrowing it 14 cents a ton, do you not?

A. Well, the effect was to change the differential or differences, as they might be termed.

Q. Do you consider this $1.94 rate from Atkinson to Beloit, Wisconsin, for a distance of 133 miles, a reasonable rate?

A. I don't think it is unreasonable.

Q. Do you consider the suggested rate which you just mentioned as $1.84 from Atkinson to Rockford for 115 miles as a reasonable rate?

A. Well, I do. Otherwise we wouldn't have proposed it.

Q. How much transportation do you propose to furnish to the Indiana producers from the Brazil-Clinton group to Rockford, Illinois, for $1.95 in distance? Isn't it a fact that your distance from the Milwaukee origin groups in the Brazil-Clinton group is 237 miles?

A. I believe that is the figure, yes.

Q. And you propose to furnish 237 miles of transportation for $1.95, or 1 cent higher than you suggest as a rea-

sonable rate from Atkinson to Rockford for 115 miles, or one hundred and some twenty-two miles less?

A. Well, that is what the proposal would result in, yes.

Q. And you consider that a reasonable proposal?

[fol. 2816] A. Well, I suppose you could single out certain rates, but in the aggregate this proposal contemplates increases in all rates 15 cents a ton to avoid further reduction in the rates to Beloit.

Q. Do you know of any transportation conditions that apply from Atkinson that are different from the transportation conditions that apply from Indiana groups that would justify such a difference in level of rates?

A. No, sir.

Q. Now, referring to your Exhibit No. 115, you show certain counties in the Fulton-Peoria and Northern Illinois producing district. There was a production of coal in other counties in the Northern Illinois district in 1925 and 1926, was there not? I refer you to LaSalle County——

A. Oh, yes.

Q. And other counties.

A. Oh, yes, quite a production.

Q. And at the time of the readjustment in I. & S. 2346, there was pending a complaint filed by the Northern Illinois producers to certain Wisconsin destinations, which was settled with I. & S. 2346, wasn't it?

A. I wasn't handling commerce work at that time and I have no knowledge of it.

Q. You didn't know about that?

A. No, sir.

[fol. 2817] Mr. Christiansen: I think that is all.

Exam. Trezise: Any further questions?

By Mr. Bather:

Q. Mr. Kuhls, in other words, as I get your testimony, you propose to increase all of the rates regardless of the origins to Rockford and this affected territory 15 cents per ton without regard to the reasonableness of any particular rate?

A. Yes, that is our proposal.

Mr. Bather: That is all.

Exam. Trezise: If there are no further questions——

Mr. Stadell: I have some questions here, Mr. Examiner.
Exam. Trezise: All right.

By Mr. Stadell:

Q. You refer, Mr. Kuhls, to the mines shown on your Exhibits 115 and possibly 116 as operating rail mines. What you meant was that the mines shown on those exhibits were commercial mines that were served by railroads?

A. That is right.

Q. You made some reference to the mines in the Bedford, Indiana group. Those mines are still there, are they not, and the tipples are still there?

A. There is only one ramp. It isn't a tipple. I don't know about the tipples. This coal is produced in wagon mines. I presume wagon mines still exist, although they are not operating; but they were operating four or five years ago and shipped coal by rail, but they haven't done [fol. 2818] so in the past few years, and for that reason we are going to cancel the rates.

Q. But as far as you know the tipples and the mine equipment *is* still in the mine?

A. The wagon mines, yes, some distance from the railroad.

Q. Now, you said there were 173 destinations involved in these proceedings. Just what do you mean by that?

A. To which rates are changed from one or more groups.

Q. But there is no proposal to increase the rates from the Indiana groups, for example, to all of those 173 destinations?

A. No. The groups served by the Milwaukee Railroad are increased to 96 of those destinations without any reductions.

Q. You said, as I recall, that the rates from Southern Illinois were increased to 76 destinations. Aren't you mistaken about that? Aren't the rates proposed to be increased to 96 destinations, as shown in Witness Rozene's Exhibit 21, from the Southern Illinois group?

A. No. Our tabulation shows increases to 78 destinations.

Exam. Trezise: 78 is what he said.
Mr. Stadell: Yes.

By Mr. Stadell:

Q. And you didn't check Mr. Rozene's Exhibit No. 21 and find that there was anything wrong with that exhibit did you?

A. No——

Mr. Hunter: I object to that.

The Witness: We didn't. I didn't check that; I didn't [fol. 2819] refer to that, no, sir.

Q. Well, he is saying something contrary here. Now, Mr. Rozene has got an exhibit, No. 21, that shows that the rates from Southern Illinois are increased to 96 destinations in Illinois. It was taken from the tariffs that were under suspension.

A. The rates in the Indiana groups are increased to 96 destinations but our tabulations show that Southern Illinois was being increased to only 78 destinations.

Q. But you can't say that Mr. Rozene's Exhibit No. 21 is in error?

A. I haven't checked it.

Q. Will you give us the names of the 78 destinations—you don't need to do it right now, but submit it, because we would like to check it with the tariffs under suspension.

A. I just have the recapitulation here.

Q. I see.

A. I don't know whether the detail is available or not. I think it is.

Q. Well, if it could be checked from the tariffs under suspension, couldn't it?

A. Yes.

Q. Now, you referred to some reductions in the rates from the Southern Illinois group. Do you know whether there is any coal moving from the Southern Illinois group to any of the destinations to which the reductions would [fol. 2820] be made?

A. No investigation was made.

Q. I refer you to the first destination shown on Witness Rozene's Exhibit No. 21, to which a reduction would be made in the Southern Illinois rate of 5 cents per ton, that destination being Alpha, Illinois. Isn't there a mine located at Alpha, Illinois?

A. That is right.

Q. You wouldn't expect any additional tonnage or any tonnage to move from Southern Illinois to Alpha, would you, even though the rate was reduced 5 cents a ton?

A. No, sir.

Q. Now, you referred to certain mileages in the Commission's report in Docket 23130 from the Southern Illinois group, which you stated the Commission used, and you referred to those as the average mileages over the short rate-making route. Just what did you mean by the "short rate-making route"?

A. The Commission used the shortest mileage from Southern Illinois shown in the record.

Q. Wasn't that the average distance over the short tariff route from all mines on the Illinois Central which was considered to be the rate-making route from Southern Illinois?

A. That is what I said, the short-rate line; whereas they used the average from the entire group when they referred to the level of the Indiana rates.

[fol. 2821] Q. You mean when they referred to the level of the Brazil-Clinton rates?

A. The Brazil-Clinton rates.

Q. You are not taking in Princeton and Boonville?

A. Oh, no. They just comment about Brazil-Clinton.

Q. Now, you made some statement about the rates from the Head of the Lakes to points in South Dakota having been reduced to meet reductions from Illinois, and that that was because of certain gas-competitive fine coal rates established from Illinois. Can you tell me a single point in South Dakota to which the railroads have established reduced rates on fine coal to meet gas competition?

A. Sioux Falls.

Q. From Illinois?

A. No, not from Illinois.

Q. You know of no destination in South Dakota to which the railroads have established reduced rates on fine coal from Illinois mines to meet gas competition?

A. No, sir, not from Illinois. They reduced them from the Lake Superior docks to meet gas competition.

Q. Yes. And you refer to a rate from the Lake Superior docks to Sioux Falls, as being on the H. & H. scale. I assume you meant by that, based on the distance to Duluth only?

A. That is right.

Q. You were using only the large coal rate?

[fol. 2822] A. That is right.

Q. And the fine coal rate from the Head of the Lakes to Duluth is a dollar less than the large coal rate, is it not?

A. Correct.

Q. So if the large coal rate is on the Holmes and Hallowell basis, the fine coal rate is a dollar below the Holmes and Hallowell basis?

A. Yes, that is true of all rates prescribed by the Commission.

Q. Now, did you make a study to determine what percentage the rates from the Head of the Lakes to the other portions of South Dakota or North Dakota that you referred to are of the Holmes and Hallowell scale, and if you did, just exactly what mileages did you use?

A. I used the Duluth mileages.

Q. You used the Duluth mileage only?

A. That is right.

Q. And did you use the average mileage, or were they short tariff route, or did you use the method of computing mileage prescribed by the Commission in the Holmes and Hallowell case?

A. I used the short tariff route.

Q. But you used that from Duluth only and disregarded the mileage from all of the other Lake Superior dock points shown in Witness Rozene's Exhibits in these proceedings?

A. Yes.

By Exam. Trezise:

Q. Which, by the way, using the term "short tariff [fol. 2823] route", would be the same as the shortest tariff route if you used it from only one point, is that right?

A. That would be correct.

By Mr. Stadell:

Q. Well, where you had more than one railroad serving at Duluth, would you use the distance over the short tariff route of each of those railroads or would you use

the distance over the one railroad that had the shortest tariff route.

A. The shortest tariff route.

By Exam. Trezise:

Q. Well, then, what you meant was "shortest tariff route" and not "short tariff route"?

A. I agreed with you when you said if it was only one point, why, it would be the shortest.

Q. Then I am to blame for that. What you meant by that was the shortest tariff route?

A. Yes.

Q. The way you figured it?

A. Yes, the short tariff and the shortest tariff.

Exam. Trezise: I see.

By Mr. Stadell:

Q. And did you use only the rates on large coal or did you also use the rates on fine coal?

A. I used the rates on all sizes, which are the same.

Q. You took the points to which the rates were the same on both large and fine?

A. No, I took—I took what I thought was 19 representative points.

[fol. 2824] Q. Oh, you only took 19 points?

A. In North Dakota and South Dakota.

Q. Oh, I see. You only took 19 points?

A. I only had a few hours to make the compilation. I couldn't take any more than that.

Q. You are not in a position to say, are you, that the mileages or rates shown in Mr. Rozene's exhibits from the Head of the Lakes to the representative points that he has shown in South Dakota, Iowa and Minnesota, are in error?

A. No. I just claim it is a specious presentation.

Q. In other words, where he takes about 80 points and shows a certain picture, you think it is better to pick only 19 and take only one tariff route from one origin out of ten or twelve?

A. Why, I thought I justified what I did by saying that all the docks combined, outside of Duluth and Superior,

handle about one-tenth the amount of coal and that doesn't move to this territory.

Q. They do handle about a million tons of coal or more annually, don't they?

A. That is right. It doesn't move to the Holmes and Hallowell territory.

Q. But they have rates the same as the rates in effect from Duluth?

A. In a good many instances, yes, sir.

Q. And they have in practically all the instances, shown in [fol. 2825] Witness Rozene's exhibits, they have the same rates?

A. To that territory, yes.

Q. You know of no instances, do you, where the rates from the Lake Superior docks to destinations, talking about the rates on large coal from the Lake Superior docks to destinations in Iowa or South Dakota or Minnesota, have been reduced to meet reductions from Milwaukee, do you?

A. Well, the lines serving the docks at the Head of the Lakes for the past several years have been saying "me too." Every time Illinois gets a reduction, they ask for the same amount; and that has been the procedure.

Q. You know of no case where the rates from the Head of the Lakes on large coal have been reduced to meet any rate from Illinois into South Dakota, Minnesota or Iowa, do you? Talking about large coal.

A. Large coal?

Q. Yes.

A. No, I don't recall any.

Q. But you do know that any time that a rate on fine coal was established from the Illinois or Indiana mines to Southern Minnesota, for example, to meet gas competition, that the rates from the Lake Superior docks, although they were smaller in amount, were immediately reduced the same amount?

A. As soon thereafter as the publication could be effected.

Q. So that in all of those instances the rates from the Lake Superior docks would be substantially below the [fol. 2826] Holmes and Hallowell scale?

A. Oh, yes.

Mr. Stadell: That is all, thank you.

Exam. Trezise: Do we have further questions?

Mr. Cardy: Just one or two questions.

Exam. Trezise: Mr. Cardy.

By Mr. Cardy:

Q. Mr. Kuhls, I notice in page 2 of your Exhibit 116, from 1936 to 1942, there has been a rather substantial falling off in the production of coal from the Northern Illinois District; that is the Wilmington mines. When did the reduction go into effect from the mines of the Milwaukee to Rockford?

A. 1934.

Q. 1934?

A. April, 1934.

Q. Do you think there is any connection between the substantial reduction in 1936 and 1942 in connection with the reduction in the Milwaukee rates to Rockford?

A. As I see it here, there was a substantial increase; not a reduction.

Q. I say from 1936 to 1942, page 2.

A. No, I don't think it had any connection.

By Mr. Hunter:

Q. Do you see any substantial reductions on that page 2, Mr. Kuhls?

[fol. 2827] A. No, that is why I say I don't think he——

Mr. Hunter: I didn't either, and I asked the question to see if there is any justification for that implication.

Mr. Cardy: I say from 1936 to 1942.

Mr. Hunter: Yes, but where is there any substantial reduction on page 2 of Exhibit 116, Mr. Cardy?

Mr. Cardy: I am talking about 135,000 tons——

Mr. Hunter: In what line?

Mr. Cardy: Line 1. Northern Illinois Coal Company, 1936 production, 1,392,717 tons; 1942, 1,092,200 tons.

The Witness: I think probably that the mine was selling more coal to trucks and less by rail.

Mr. Cardy: Now, Mr. Kuhls, there is one other question I would like to ask you:

By Mr. Cardy:

Q. Do you know why they increased the rates from Wilmington to Rockford and some other points 20 cents a ton and only proposed the highest increase from any of the other mines 15 cents a ton. Can you explain that?

A. To what point, Mr. Cardy?

Q. To Rockford. In other words, the increase from Wilmington is 20 cents a ton proposed in this proceeding. From all of the other mines the maximum is 15 cents a ton.

A. That is to put it on the same basis as the origin points in the Northern Illinois district.

Q. Isn't it a fact that if you take that 5 cents under Ex Parte 115—in other words, when you increase the [fol. 2828] rates to Beloit from the Northern Illinois district, you increase 10 cents; to Rockford 5 cents. In this proceeding you just added that 5 cents to the 15 cents. Is not that true?

A. That is part of the answer I gave you before. It was to place Wilmington on the same basis as the other mines.

Exam. Trezise: Further questions?

Redirect examination.

By Mr. Hunter:

Q. Mr. Kuhls, referring to page 2 of Exhibit 116, will you point out the seven very substantial increases, if I am correct, in the tonnages between the years 1936 and 1942, which I think very many times offset the decrease referred to by Mr. Cardy.

[fol. 2829] Mr. Cardy: Now, Mr. Examiner——

Mr. Christiansen: It is all shown on the exhibit.

Mr. Hunter: I am asking him——

Mr. Cardy: I was talking about the Northern Illinois District and not the Fulton-Peoria district. If you confine yourself to the Northern Illinois field which I asked him about, all well and good.

By Mr. Hunter:

Q. Aren't all of these coal companies in the same district?

A. No, he was talking about the Wilmington mine or the Northern Illinois Coal Corporation mine, which is in Will County, Northern Illinois field, and most of the other fields are in the Fulton County group.

Q. On that page 2?

A. Yes.

Exam. Trezise: Any further questions?

By Exam. Trezise:

Q. Mr. Kuhls, did you also find that the carriers from the Head of the Lakes increase their rates to the Holmes and Hallowell territory each time the Commission finds that the rates from Illinois should be increased, as they did in the South Dakota case, upon a complaint that the rates were unreasonably high? That is a question.

A. No.

Exam. Trezise: Any further questions? (No response.) If not, you may be excused, Mr. Kuhls.

[fol. 2830] (Witness excused.)

Mr. Biaett: I call Mr. C. J. Nelson.

Exam. Trezise: Mr. Nelson.

Mr. Biaett: Mr. Examiner, Mr. Nelson has one exhibit which I shall ask to have marked Exhibit No. 117. It has been distributed. I have some extra copies if anyone would like one.

(Exhibit 117, Witness Nelson, marked for identification.)

C. J. Nelson recalled:

Direct examination.

By Mr. Biaett:

Q. Are you the same Mr. C. J. Nelson who previously testified in these proceedings?

A. I am.

Q. At the time you previously testified in these proceedings, did you introduce Exhibit No. 11?

A. Yes, sir.

Q. And since that exhibit was introduced, have you found some corrections which you would like to make in that exhibit?

A. I have.

Q. Will you please make those corrections.

A. I have one correction to make on line 7 of Exhibit No. 11. An error was made in counting the total number of origins that should be utilized in ascertaining the average distance, rate, and so forth, to the representative [fol. 2831] suspended points.

Under Column 1, number of origins, the figures should be 297 instead of 285. Under Column 2, total rate, the figures should be 46,953 instead of 45,033. In Column 5, average distance, the figures should be 163.9 instead of 170.8. Column 6, Holmes and Hallowell scale rate, the figures should be 207 instead of 219. And in Column 7, percentage average suspended rate is of H. & H. scale, the figures should be 76.3 instead of 72.1. Otherwise the exhibit is correct.

Q. Mr. Nelson, are you familiar with Witness Scott's exhibit 43 and the fact that he shows in that exhibit that no mileages are published from Templeton No. 4 mine in the Linton-Sullivan group?

A. Yes, sir. I believe Mr. Scott stated on the witness stand that he was unable to find any distances or tariff authority for distances from the Templeton mine No. 4. They are found in Supplement 37 to Pennsylvania Railroad Mileage Tariff ICC 397.

By Mr. Scott:

Q. Effective what date, please, Mr. Nelson?

A. I can't give you the effective date. I will supply that if you want me to.

Mr. Scott: I think it is important, please, to bring out the whole story.

Mr. Biaett: Well, if he wants it, may we submit it by letter to all parties after the hearing, Mr. Examiner? I don't [fol. 2832] know that we will be able to——

Exam. Trezise: Oh, I think so. I see no reason why not.

Mr. Biaett: I mean we will be agreeable to doing that.

Exam. Trezise: Very well. It will be a part of the record, is that what you mean?

Mr. Biaett: Well, I would be agreeable to have it incorporated into the record, if that is what Mr. Scott wants.

Exam. Trezise: All right, then, it will be understood that you will furnish the parties this information, to be incorporated as a part of the record.

Mr. Biaett: In the event——

Exam. Trezise: But not made an exhibit.

Mr. Biaett: In the event of our inability to furnish it before the close of the hearing.

Exam. Trezise: All right.

By Mr. Biaett:

Q. Mr. Nelson, have you prepared an exhibit which has been marked for identification as Exhibit No. 117?

A. I have.

Q. Will you please take up and explain that exhibit.

A. It is a statement showing the population for the year 1940 of the representative suspended and comparative points selected by the carriers; also the additional representative points selected by the Coal Trade Association of Indiana. The years shown in the heading of the statement of 1941—or the year 1941, should be changed to 1940.

(Exhibit 117, Witness Nelson, received in evidence.)

[fol. 2833] On the first 26 lines is shown the population of the representative suspended and comparative points selected by the rail carriers, and on the last 7 lines the population of the additional 6 points selected by the Coal Trade Association of Indiana. Authority for the figures is shown at the bottom of the statement.

Q. Mr. Nelson, are you familiar with the Blue Book adjustment which has been mentioned at various times in these proceedings?

A. Yes, sir.

Q. Will you please state the background of the Blue Book adjustment in connection with the rates which were published on July 19, 1925.

A. Well, the Commission in their order in the Illinois Coal cases of 1920, 62 ICC, authorized carriers to restore

differential adjustments that had been disturbed by the general percentage increases and decreases. However, in the so-called Blue Book adjujstment this was not done in many instances. Compromises were made. Therefore, all of the differentials that were in effect prior to that time were not restored.

Q. In your opinion, Mr. Nelson, should the rates published under the Blue Book adjustment be used as a guide or a yardstick to rates which might be prescribed in this proceeding?

A. No, not in all instances.

Q. Did you hear the testimony of Mr. H. V. Scott in these proceedings, Mr. Nelson?

[fol. 2834] A. I did.

Q. Are you in accord with the position of Mr. Scott with respect to the prescription of so-called standard differentials from the Princeton and Boonville groups to the suspended territory here involved?

A. No, I am not. I am supporting the rates that the carriers have published and which are now under suspension; but I am not in accord with Mr. Scott's proposal.

Mr. Hamilton has, in his direct statement, outlined my views on the matter, and in addition to what he has stated, I want to say that I think the differentials now in effect between the Northern Indiana groups and the Southern Illinois groups are too low and that the difference in distance justifies the greater spread.

I also think that the rates to Beloit should all be made 15 cents higher than the proposed rates to Rockford, and that the rates from the Southern Indiana groups to this affected territory should not be made lower than the rates from Southern Illinois, the distance from the Southern Indiana groups being equal to or greater than the distance from Southern Illinois.

Q. In constructing rates from Southern Illinois, do you have to take into consideration the level of and the relationship of the rates from the Princeton and Boonville groups?

A. Yes, sir, you should.

[fol. 2835] Q. Mr. Nelson, were you present when Mr. H. V. Scott testified that distance should not be a controlling element in determining the freight rate adjustment involved in these proceedings?

A. I was.

Q. What have you to say with respect to distance as a factor in determining the level of the rates and the relationship of the rates involved in these proceedings?

A. I don't agree with Mr. Scott's statement. I think that distance is of major importance in all differential adjustments, particularly where there is a parity of operating conditions and competition. Competition is a variable factor; and in this particular adjustment I think the Commission should give distance the major consideration.

Q. Do you think that commercial conditions should be, or competitive conditions should be considered in order to secure lower rates from a greater distant group?

A. Not to the extent of establishing rates from the Southern Indiana groups on a basis lower than those from the Southern Illinois group when their distance is greater. The commercial competition exists not only between the groups in Indiana but also between the groups in Indiana and the groups in Illinois, and I know of no reason why the rates from Indiana should be made lower than the rates from Illinois, when their distance from those groups is greater.

Q. Were you present when Mr. H. A. Rozene criticized the use of the Holmes and Hallowell scale as the measur- [fol. 2836] ing stick in comparing the level of the rates from the various groups in the carriers' exhibits?

A. Yes, sir.

Q. What have you to say with respect to the use of that scale for the purpose of comparing the respective levels of group rates?

A. Well, in the first place, the scale was prescribed by the Commission to apply on coal that had received prior transportation by rail and lake; and since it was prescribed, it has been used by the carriers and others in almost every rate case that has been heard. It has been used by the Commission as a yardstick in prescribing rates or approving rates, and I don't see any reason why it should be discarded in this instance. It isn't 100 per cent perfect, but I don't think any scale is 100 per cent perfect.

At least, in the opinion of everyone, and where you have comparable distances, such as we have in this Northern Illinois adjustment, and you are comparing distances from one group to suspended points with distances from the

same group to representative comparative points, where the difference is not very great, I don't see any reason why it isn't a proper yardstick.

To illustrate, the average distance from Fulton County field to the representative suspended points is 163.9 miles, and to the representative comparative points it is 184 miles. [fol. 2837] That difference in distance certainly doesn't prevent the H. & H. scale from being used as a yardstick. You could make similar comparisons in distance from other groups.

Q. That is in comparing the level of the Interstate rates with the level of the intrastate rates?

A. That is right.

Q. Are you familiar with the traffic moving under the H. & H. scale?

A. Yes, in a general way.

Q. Does that coal traffic pay prior transportation charges prior to the time that it moves out from the Lake Superior docks under the H. & H. scale rates?

A. It does.

Q. Do you have those transportation charges?

A. Well, I have some of them. The lake cargo rate from the Inner Crescent groups in the East to Lake Erie ports is $1.91. The dumping charge is 9 cents and the vessel rate from Lake Erie ports to docks on Lake Superior is generally 50 cents. It varies. That makes a total charge of $2.50.

Now, from the Pittsburg group, the lake cargo rail rate is $1.56, the dumping charge 9 cents plus the charge of 50 cents, makes a total of $2.15.

Q. Have you finished your answer to that question, Mr. Nelson?

A. Yes, sir.

Q. Are you familiar with the exhibits introduced by Mr. A. J. Christiansen in these proceedings?

[fol. 2838] A. Yes, I am.

Q. In those exhibits, does Mr. Christiansen compute the distances from Alpha, Atkinson, Victoria, the mines in Fulton County and the mines at Peoria as one group?

A. Yes, sir.

Q. Do you have any comments to make with respect to the propriety or impropriety of computing the distances in that manner?

A. Yes, sir, to this territory in Northern Illinois I don't think it is proper to show or to publish rates from the various districts, that is Atkinson, Alpha, Victoria and Fulton County and Peoria as one group. We don't do it today and it seems to me that the conditions that exist don't justify doing so in the future.

Atkinson is located east of Rock Island, Illinois, about 70 miles north and east of Fulton County; mostly north. Victoria is located east of Galesburg 17 miles, about 62 miles from Fulton County. Alpha is 18 miles north of Galesburg, about 63 miles from Fulton County.

There is just as much justification for including Rushville in the Fulton-Peoria group, which point is about 30 miles south of Fulton County, as there is of grouping all of these other points together. I don't see any objection to grouping Fulton County and Peoria in the same group. At the present time the rates from Victoria are in many instances [fol. 2839] less than the rates from Fulton County to this affected territory; and that is true to some extent with the rates from Alpha.

The Illinois Commerce Commission and also the Interstate Commerce Commission have said to points in Northern Illinois and in Western Iowa, the rates from Alpha should be less than the rates from Fulton County.

Therefore, for these reasons I think we should continue to publish rates from the groups separately. When you establish rates from those groups to greater distances to points beyond a line 130 miles west of Davenport or points up in Wisconsin, then I see no objection to making the rates from all of them the same.

Q. Mr. Nelson, did you hear the testimony of Mr. A. J. Christiansen in these proceedings?

A. Yes, sir.

Q. What have you to say with respect to the level of the rates which should apply from Fulton County or Fulton-Peoria to the suspended territory and the manner in which those rates should be constructed?

A. Mr. Christiansen's theory is that as the distance decreases, the difference should increase. Stating it another way, rates from Fulton County to destinations in Northern Illinois to which the hauls are short, the difference in rates between Fulton County mines and those in Southern

Illinois should be greater than the difference in rates to [fol. 2840] points in Northern Wisconsin or in Minnesota, and so forth.

That rule may be all right as the general formula, but it has been departed from many times and I think it should be in this instance, where you have a low level of rates with the lower Illinois groups or the Illinois groups such as you have in this group to the Northern Illinois destinations, and you establish rates from Fulton County to those same destinations that are 79 cents or some other figure lower than the rates from Southern Illinois, you get a level of rates from the Fulton County District that is entirely too low. I think you should take into consideration the measure of the rates affecting carriers' revenue in working out adjustments of this kind.

Q. In your opinion, should Southern Illinois and Fulton-Peoria be related on some differential or identical differential applying at all points, Mr. Nelson?

A. Not in this Northern Illinois area, no, sir.

Q. Were you present, Mr. Nelson, when Mr. Forsberg stated that the switching charges in the Chicago district were $30 per ton?

A. I was.

Mr. Stadell: Per ton?

By Mr. Biaett:

Q. $30 per car; excuse me.

A. Yes, sir.

Q. Do you have the switching charges at Chicago and can you read them into the record?

[fol. 2841] A. Yes, sir. They are in reality not switching charges. They are differences of rates that the delivering lines receive. They are published as divisions.

Where a delivery is made by a line having direct connection with a roadhaul carrier, the charge is $1.59 per hundred, or 31.8 cents per ton. That is published in Division Sheet 54-B, ICC 399, under Chicago Switching Committee Tariff 27-G, R. G. Rassch, Agent.

Where there is an intermediate carrier involved, that intermediate line gets $5.83 per car. That is in addition to the 31.8 cents per car.

Q. Does that figure which you have given include the Ex Parte 148 increase, Mr. Nelson?

A. It does.

Q. And how much was that increase?

A. Well, on the rate—the division prior to the time it was made 31.8 was 30 cents, so the increase was 1.8 cents per ton.

Mr. Biaett: Mr. Examiner, I have obtained from Mr. Rozene the effective date of that tariff. If Mr. Scott has no objection, we can supply it into the record and we will make no further comment on it unless their——

Exam. Trezise: All right.

Mr. Biaett: Unless you find out that this is incorrect.

Exam. Trezise: Put it in the record.

Mr. Biaett: The effective date of the Pennsylvania [fol. 2842] tariff to which Mr. Nelson referred was July 20, 1942.

Exam. Trezise: Are you through?

Mr. Biaett: That is all we have on rebuttal.

Mr. Christiansen: I have a few questions.

By Exam. Trezise:

Q. Now, is it, Mr. Nelson, your understanding that Mr. Rozene did undertake to compare the rates involved with a so-called Holmes and Hallowell scale that is applied on traffic originating beyond the dock, or on any other traffic?

A. Mr. Rosene criticized the carriers for using the H. & H. scale as a yardstick. At least that is the way I understood his testimony. He did, however, use the scale himself in one exhibit, Exhibit No. 98, even though he thought it wasn't a proper yardstick.

Q. I asked that because there is always so much misunderstanding and confusion every time anybody mentions the Holmes and Hallowell scale. I didn't know that Mr. Rozene used the Holmes and Hallowell scale as a measure of reasonableness, but he did, as I understood, make some sort of a comparison with a case that was prescribed, plus 15 cents. I understood that that was—well, that isn't the scale that was applied on this traffic.

Mr. Biaett: Well, Mr. Rozene, Mr. Examiner, also made some comparison with the rates actually published and the routes.

Exam. Trezise: Oh, yes.

Mr. Biaett: Over which the traffic moved, and then com-[fol. 2843] pared that with the Midland scale to reach a conclusion on his exhibit that the Midland scale was on a higher level than the H. & H. scale; and it is my purpose to have Mr. Nelson refer to the general background of the H. & H. scale to have the record clear on just what traffic was moving under the H. & H. scale.

Exam. Trezise: All right, questions?

Mr. Christiansen: Yes.

Cross examination.

By Mr. Christiansen:

Q. Mr. Nelson, when you read the figures in for the correction of your Exhibit No. 11, you read in Column 2 on line 7, 46,953.0?

A. Yes, sir.

Q. That figure divided by 297 averages 158.1. Didn't you get the wrong figure there?

A. 46,953 is the figure I gave. 297 origins. 158.1; I have 158 here.

Q. Well, I think you got——

A. Just one-tenth of a cent——

Q. I think you got the rate total instead of the mileage total when you read this into the record. You haven't got the right total for line 2 today. I have that correct total if you want it. The correct total is 48,684.0.

A. That is the total rate?

Q. Of the mileages.

[fol. 2844] A. Total mileages.

Q. Yes, sir.

A. The total mileage I have is 48,684.0. That is what I have in column 3.

Mr. Hamilton: You didn't read column 3, did you?

The Witness: I didn't read column 3. I didn't correct that at all.

Mr. Christiansen: O. K.

By Mr. Christiansen:

Q. Now, Mr. Nelson, I take it, in reply to Mr. Biaett's question with reference to the grouping of the origin points

in the so-called Alpha, Atkinson, Victoria and Fulton-Peoria groups, that to this short haul territory you don't believe that the large groups should be used?

A. That is right.

Q. I take it from that that you are of the opinion that lower rates than the Fulton-Peoria rates ought to be used from Atkinson, Alpha and Victoria to give them the benefit of their mileages to these short haul destinations, is that right?

A. They have today in some instances the lower basis.

Q. Atkinson doesn't have any lower rates, does it, that you know of, to a single destination in this territory than Fulton County?

A. It may not; I don't know.

Q. Alpha has lower rates only to one destination and that is Amboy, in this entire territory?

[fol. 2845] A. It has to some destinations in the western part of this territory. I don't know whether it is one, two or three.

Q. By not using the Atkinson, Alpha and Victoria mileages in establishing a level of rates from Fulton County, I presume you would give them the benefit of their shorter mileages in establishing their rates so that they would have a differential under Fulton County, would you not?

A. If their rates were on an unreasonable basis, I certainly would. I don't think they are.

Q. You think that they ought to have the same rate as Fulton County but they shouldn't use the mileage in ascertaining the level of the entire group?

A. That is correct.

Q. But you do think to points beyond, we will say, the short haul territory, that they might well be grouped as the so-called Fulton-Peoria group?

A. When you get a further distance away, I can see no objection to grouping those points in one group. As a matter of fact, I think that is generally done today.

Q. Now, Mr. Nelson, in connection with the theory of decreasing differentials as mileage increases, or stated the other way, increasing differentials as mileage decreases, do you think that the territory in the Northern Illinois group should receive different treatment than is accorded the territory throughout the country, such as the Arkansas, Southwestern territory, the Springfield district, in relation

[fol. 2846] to Southern Illinois, the Indiana district in relation to Indiana, if you had the Inner and Outer Crescents in relation to each other or to the rest of the territory?

A. I think that each adjustment should be considered on the conditions that exist and you can't follow any formula or general formula to the letter; that you have to take into consideration the level of the rates, the distances involved.

Q. Now, Mr. Nelson, isn't it a fact that relatively the level of the rates for short-haul points is higher where the differential is low as between two origin groups than where the differential is high?

A. I don't know; I haven't made any study of that.

Q. Isn't it also a fact that where the differential is low as between two origin groups, the longer distance rates are generally much lower than they would be if the differential were higher?

The Witness: Will you read that question to me, please, Miss Reporter.

(Question read.)

The Witness: I don't understand that question.

Mr. Christiansen: Well, let me put it another way:

By Mr. Christiansen:

Q. Today we have a 70 cent differential Southern Illinois over Fulton-Peoria at Cedar Rapids, Iowa. If that differential were made 50 cents by reducing the Southern Illinois [fol. 2847] rate, would not the level of rates from Southern Illinois be much lower?

A. Sure.

Q. And isn't that the condition——

A. Lower than it is today, you mean?

Q. Yes.

A. Certainly.

Q. And isn't that the situation that exists into this Northern Illinois territory, that by the establishment of a 50 cent differential over Fulton-Peoria at Dixon, as an illustration, or a 60 cent differential at Rockford, that the level of rates from the Southern Illinois district becomes much lower than it would be if a 70 cent differential were established or a 79 cent differential were established?

A. I think perhaps you are talking about a different thing. You are assuming that the rates from Southern

Illinois would be made 50 cents over Fulton County. I maintain there is no relationship today, that the rates from Fulton County to this Northern Illinois territory should not be definitely related to those from Southern Illinois. I have given reasons for my position.

Q. But it is a fact that in every short haul territory the differential, except this particular one, increases as you approach the point of origin?

A. I don't know that to be true.

[fol. 2848] Mr. Christiansen: That is all.

Mr. Wilkinson: May I ask one question?

Exam. Trezise: Mr. Wilkinson.

By Mr. Wilkinson:

Q. Mr. Nelson, you have advocated here very strenuously that because the distance from Princeton-Ayrshire and from Southern Illinois is substantially the same, that the rates from those two groups should be the same to this destination territory.

A. They certainly——

Q. Now, is it not a fact that to most of these destinations the distances from the Springfield group and the Brazil-Clinton group are substantially the same. Is that a fact?

A. Well——

Q. I am leaving out Dixon and Rochelle from those to the south end, but I say to most of them.

A. Well, to the representative suspended points, according to Exhibit No. 11 which I submitted, the distance Brazil-Clinton over Springfield is 24 miles.

Q. Yes.

A. Difference in distance of 24 miles.

Q. But to all of those points, excluding Dixon, where the difference favors Springfield, you and the other carriers are proposing rates from Brazil-Clinton that are substantially higher than the proposed rates from Springfield, are you not?

A. We are proposing to increase the rates that are now in effect——

[fol. 2849] Q. Well, they result in rates, the present rates from Brazil-Clinton are substantially higher than the present rates from Springfield?

A. Let me finish my answer, Mr. Wilkinson.

Q. Yes, sir,

A. We are proposing to maintain, as near as possible, the present adjustment, increase the rates from all districts the same amount.

Now, if the present rates are higher than Springfield, well, they will be higher than Springfield. If they are lower than Springfield, they will continue lower than Springfield.

Q. What I want to know, Mr. Nelson, is why you, as a rate man, giving your expert opinion here, recommend to this Commission to establish a parity of rates from Southern Illinois and Princeton because the distances from the two groups to these destinations are substantially the same, while as between Springfield, Illinois, and Brazil-Clinton you do not make the same recommendation.

A. My recommendation is, if you call it such, was suggested as a comment on Mr. Scott's proposal. The carriers are not proposing to change the relationship in this instance in the rates that are under suspension.

Mr. Wilkinson: All right, that is all.

Mr. Bather: I have a question.

By Mr. Bather:

Q. Mr. Nelson, to what extent does the Burlington [fol. 2850] participate in the rates from the Indiana groups to the affected territory?

A. We do not participate in any of them.

Q. Now, your testimony regarding the absorption of switching or what you call divisions, the figure that you gave of $5.50, which excludes the Ex Parte 148 increases, is that figure you gave the maximum absorption of switching in the Chicago district?

A. It may not be, but I think that is more than the average, because usually the line that makes the delivery has a direct connection with the road-haul line.

Q. That is also true as far as coal to Rockford is concerned, isn't it?

A. What do you mean it is also true as far as coal to Rockford?

Q. In other words, if you bring the coal in on the line haul and you make delivery to an industry on the Bur-

lington at Rockford, you don't have to absorb that switching?

A. That is correct.

Q. If you make it on to a point on the North Western or the Illinois Central, you do absorb switching?

A. Certainly, yes, sir.

Mr. Bather: That is all.

Mr. Stadell: I have just one question or two.

By Mr. Stadell:

Q. You stated that it was your position, Mr. Nelson, that when it came to measuring or prescribing the rates [fol. 2851] from two groups, such as the Princeton group on the one hand and the Southern Illinois group on the other, or the Princeton group on the one hand and the Belleville, Illinois group on the other to the territory involved, that in view of the fact that transportation conditions were substantially the same, that distance should be the major factor and that the group with the longer distance should not have a lower rate than the group with the shorter distance?

A. Yes, sir.

Q. And you thought that the Commission should follow that principle in passing upon the rates involved in these proceedings?

A. Yes, sir.

Q. Now, you would not, therefore, expect or want the Interstate Commerce Commission, in the event that they approved or prescribed the rates that have been suggested by the Indiana interests or which were approved by the Commission in I. & S. 4368, from the Princeton and Boonville, Indiana groups, which disregard distances, to issue a 13th Section order such as the railroads request, requiring the increases that the railroads have proposed in the rates from the Southern Illinois group, would you?

A. You mean increase the rates from Illinois and not increase the rates from Indiana?

Q. That is right.

[fols. 2852-2856] A. No, I wouldn't want that.

Q. And you wouldn't want any 13th Section order requiring that?

A. No, I wouldn't want that.

[fols. 2857-2859] Exam. Trezise: Put at the end here that the briefs will be due December 1, 1943, or nobody will ever find it in that.

The hearing is closed, and on behalf of the Examiners I think we want to express our kind consideration of all of you gentlemen, through these tedious days, in keeping a very complicated record perfectly clear, even that the wayfaring man can understand it.

(Hearing in I. C. C. Dockets 28881 and I. & S. Docket 5139 closed; hearing in Ill. C. C. Docket 30935 continued sine die.)

PETITIONERS' EXHIBIT NO. 8

RATES AND CHARGES PUBLISHED IN THIS SUPPLEMENT ARE SUBJECT TO THE PROVISIONS OF TARIFF OF INCREASED RATES AND CHARGES X-148, AGENT B.T. JONES' I.C.C. 3659, I.R.C. D-693, Ill.C.C. 475.

CHARGES RESULTING FROM THE RATES NAMED IN THIS TARIFF AND AS AMENDED ARE SUBJECT TO THE PROVISIONS OF TARIFF OF CURRENCY EQUALIZATION CHARGES, B.T. JONES' (AGENT) TARIFF NO. 529-B, I.C.C. 3448. EXPIRES WITH SEPTEMBER 24, 1943, UNLESS SOONER CANCELLED, CHANGED OR EXTENDED.

SUPPLEMENTS 23, ⊕ 28, ① 43, 44, 46, ② 50 +50B, +ø50C AND 51 CONTAIN ALL CHANGES.

SUPPLEMENT 51
TO
I.C.C. 2367
I.R.C. 219
Ill.C.C. 146

① Ex Parte 148 (B-470).
② Items 5A, 10A and 12A has been suspended by the Illinois Commerce Commission by Supplement +50C.
⊕ Blanket Supplement 454.
\+ Illinois Intrastate Supplement.
ø Suspension Supplement.

TARIFF 60-F

THE PENNSYLVANIA RAILROAD COMPANY

In Connection With
Participating Carriers Named on Pages 3 and 4 of Tariff and as Amended

LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF
Naming Rates in Cents per 2000 Pounds (Except as Noted)

- on -

C O A L, B I T U M I N O U S, C A R L O A D S
(As Described in Items 5A, 10A and 12A, Page 66 of Tariff as Amended).

FROM STATIONS ON	TO STATIONS IN	
ILLINOIS TERMINAL COMPANY PENNSYLVANIA RAILROAD (West of Pittsburgh, Pa., Oil City, Pa., Erie, Pa.) As Named on Page 5 of Tariff and as Amended.	ARKANSAS COLORADO ILLINOIS INDIANA IOWA KANSAS KENTUCKY LOUISIANA MICHIGAN	MINNESOTA MISSOURI MONTANA NEBRASKA NORTH DAKOTA OHIO SOUTH DAKOTA WISCONSIN WYOMING
	As Named on Pages 6 to 64 of Tariff and as Amended.	

ALSO

M I L E A G E R A T E S
(Within State of Illinois)
As Named on Page 304 of Tariff

Departure from the terms of Rule 28(a) of Tariff Circular 20 is authorized under Special Permission of the Interstate Commerce Commission No. 154301 of July 3, 1936.

Departure from the terms of Rule 9(e) of Tariff Circular No. 20 is authorized under permission of the Interstate Commerce Commission No. 7920 of March 17, 1942.

ISSUED JULY 1, 1942.

EFFECTIVE AUGUST 2, 1942.

J. T. CARBINE,
Coal Traffic Manager,
Philadelphia, Pa.

By:- O. P. SHAW,
Chief of Tariff Bureau,
15 N. 32nd Street,
Philadelphia, Pa.

C. H. LIPPINCOTT,
Assistant Coal Traffic Manager,
Philadelphia, Pa.

H. W. LARGE,
General Coal Freight Agent.
Chicago, Ill.

M. E. KLEIN,
Coal Freight Agent,
Chicago, Ill.

(1600)

RECEIVED		
Month	Day	Year

AGENT'S INDEX 324.

(Box 113)
Printed in U.S.A.

C-35 (106-72) P6

2860

1614

Reissued, except as noted, from Supplement	TAKING EFFECT	Page of Tariff Affected		Sta-tion No.	TO STATIONS shown on pages 6 to 64 of Tariff, indicated by NUMBERS AND NAMES	From Stations of Origin Named on Page 5 of Tariff indicated by Group Numbers: GROUPS 1,2 Lump Rate	GROUPS 1,2 Fine Rate	Route No.	GROUP 3 Lump Rate	GROUP 3 Fine Rate	Route No.	GROUP 4 Lump Rate	GROUP 4 Fine Rate	Route No.	GROUP 5 Lump Rate	GROUP 5 Fine Rate	Route No.
					PARTICIPATING CARRIERS As Shown in Tariff and Supplements 23, 44 and 50												
					BITUMINOUS COAL AS DESCRIBED IN ITEMS 5A AND 10A, PAGE 66 OF TARIFF (AS AMENDED) Rates in Cents per Ton of 2000 Pounds For Routes, see Pages 307 to 318 of Tariff												
					CHICAGO AND NORTH WESTERN RAILWAY												
				90	Geneva.....Ill	(48) ♦189	(48) ♦189	1,3	(48) ♦194	(48) ♦194	1,3	(48) ♦195	(48) ♦195	6,7	(48) ♦175	(48) ♦175	2
				95	La Fox.....Ill												
				100	Elburn.....Ill	♦189	♦189	1,3	♦194	♦194	1,3	♦195	♦195	6,7	♦175	♦175	2
				105	Maple Park....Ill												
				110	Cortland.....Ill	♦189	♦189	1,3	♦194	♦194	1,3	(3) ♦195	(3) ♦195	6,7	(3) ♦175	(3) ♦175	2
				115	De Kalb.....Ill												
				120	Malta.....Ill												
				125	Creston.....Ill												
				130	Rochelle.....Ill												
				135	Flagg.....Ill												
				140	Ashton.....Ill												
⊙	8-2-42 (E585)	82	Change and Sup.44	145	Franklin Grove.....Ill	♦189	♦189	1,3	♦199	♦199	1,3	(3) ♦195	(3) ♦195	6,7	(3) ♦175	(3) ♦175	2
				150	Nachusa.....Ill												
				155	Dixon.....Ill												
				160	Nelson.....Ill												
				165	Sterling(Rock Falls).....Ill												
				235	Gilberts.....Ill												
				245	Huntley.....Ill												
				250	Union.....Ill	197	197	1,3	202	202	1,3	♦215	♦215	4,8	♦195	♦195	2
				255	Marengo.....Ill												
				260	Garden Prairie, Ill												
				265	Belvidere.....Ill												
				270	Cherry Valley.Ill												
				275	Rockford.....Ill												
				280	Winnebago.....Ill	♦212	♦212	1,3	♦217	♦217	1,3	(3) ♦215	(3) ♦215	4,8	(3) ♦195	(3) ♦195	2
				285	Pecatonica....Ill												
				290	Ridott.....Ill												
				295	Freeport.....Ill												
				315	St.Charles....Ill	♦189	♦189	1,3	♦194	♦194	1,3	♦195	♦195	4,8	♦175	♦175	2
⊙	8-2-42 (E585)	83	Change	350	Dundee.....Ill	210	210	1,3	219	219	1,3	♦230	♦230	4,8	♦210	♦210	2
				420	Sycamore.....Ill	♦189	♦189	1,2, 3	♦194	♦194	1,3	(3) ♦195	(3) ♦195	6,7	(3) ♦175	(3) ♦175	2
⊙	8-2-42 (E585)	89	Change	4125	Roscoe.....Ill	♦227	♦227	1,3	♦232	♦232	1,3	230	230	4,8	210	210	2
						M	M	1,2	M	M		M	M		M	M	

BITUMINOUS COAL AS DESCRIBED IN ITEMS 5A AND 10A, PAGE 66 OF TARIFF (AS AMENDED)
Rates in Cents per Ton of 2000 Pounds
For Routes, see Pages 307 to 318 of Tariff

Reissued, except as noted, from Supplement	TAKING EFFECT	Page of Tariff Affected		Station No.	TO STATIONS shown on pages 6 to 64 of Tariff, indicated by NUMBERS AND NAMES	From Stations of Origin Named on Page 5 of Tariff indicated by Group Numbers											
						GROUPS 1,2		Route No.	GROUP 3		Route No.	GROUP 4		Route No.	GROUP 5		Route No.
						Lump Rate	Fine Rate		Lump Rate	Fine Rate		Lump Rate	Fine Rate		Lump Rate	Fine Rate	
					CHICAGO, BURLINGTON & QUINCY RAILROAD												
				715	Rockford.....Ill	....	....	...	....	....	...	(11) ♦215	(11) ♦215	6	....	....	...
				950	Alpha.....Ill	....	....	...	....	....	...	♦195	♦195	5	....	....	...
⊙	8-2-42 (E585)	105 106	Change	1470 1480 1485 1490 1495	Fenton.....Ill Erie.....Ill Hillsdale.....Ill Joslin.....Ill Osborn.....Ill	♦201	♦201	1	....	....	...	....	....	...	....	....	...
				1565	Barstow.....Ill	(3) ♦205	(3) ♦205	1	(3) ♦215	(3) ♦215	7	(3) ♦195	(3) ♦195	6	....	....	...
⊙	8-2-42 (E585)	107	Change	1570 1575 1580 1585 1590 1595 1600 1605 1610	Cleveland.....Ill Colona.....Ill Briar Bluff...Ill Warner.....Ill Orion.....Ill Lynn.....Ill Opheim.....Ill Henderson.....Ill Rio.....Ill	....	....	...	....	....	...	(3) ♦195	(3) ♦195	5	....	....	...
					CHICAGO GREAT WESTERN RAILROAD												
				50	St. Charles...Ill	♦189	♦189	1,2	♦194	♦194	1,2	(3) ♦195	(3) ♦195	3,4, 5,6	....	....	...
				60 65 70 75	Wasco.....Ill Lily Lake.....Ill Virgil.....Ill Richardson....Ill	♦189	♦189	1,2	♦194	♦194	1,2	195	195	3,4, 5,6	....	....	...
				80 82	Sycamore.....Ill De Kalb.....Ill	♦189	♦189	1,2	♦194	♦194	1,2	(3) ♦195	(3) ♦195	3,4, 5,6	....	....	...
				84	Five Points...Ill	♦189	♦189	1,2	♦194	♦194	1,2	(3) ♦195	(3) ♦195	3,4, 5,6	....	....	...
⊙	8-2-42 (E585)	122 and Sup.44	Change	85	Wilkinson.....Ill	♦195	♦195	1,2	♦200	♦200	1,2	(3) ♦195	(3) ♦195	3,4, 5,6	....	....	...
				90	Clare.....Ill	♦207	♦207	1,2	♦212	♦212	1,2	(3) ♦200	(3) ♦200	3,4, 5,6	....	....	...

⊙	8-2-42 (E585)	122 Change and Sup.44	84	Five Points...Ill	↓189	↓189	1,2	↓194	↓194	1,2	③ ♦195	③ ♦195	3,4, 5,6	....	....	...
			85	Wilkinson.....Ill	♦195	♦195	1,2	♦200	♦200	1,2	③ ♦195	③ ♦195	3,4, 5,6	....	....	...
			90	Clare.....Ill	♦207	♦207	1,2	♦212	♦212	1,2	③ ♦200	③ ♦200	3,4, 5,6	....	....	...
			95 Esmond.....Ill 100 Lindenwood....Ill 105 Holcomb.....Ill 110 Stillman Valley.....Ill 115 Byron.....Ill 120 Myrtle.....Ill 125 Egan.....Ill 130 German Valley.Ill		♦207	♦207	1,2	♦212	♦212	1,2	③ ♦210	③ ♦210	3,4, 7	....	....	...
			135	South Freeport.....Ill	♦207	♦207	1,2	♦212	♦212	1,2	③ ♦210	③ ♦210	3,4	....	....	...

For explanation of abbreviations and reference marks, except as shown below, see pages 3, 4 and 65 of tariff and as amended.

⊙ Additions, cancellations and changes effected by this supplement.

♦ Increase.

↓ Reduction.

2862

1941

Reissued, except as noted, from Supplement	TAKING EFFECT	Page of Tariff Affected		BITUMINOUS COAL AS DESCRIBED IN ITEMS 5A AND 10A, PAGE 66 OF TARIFF (AS AMENDED) Rates in Cents per Ton of 2000 Pounds For Routes, see Pages 307 to 318 of Tariff													
				Station No.	TO STATIONS shown on Pages 6 to 64 of tariff, indicated by NUMBERS AND NAMES	From Stations of Origin named on Page 5 of Tariff indicated by Group Numbers											
						GROUPS 1,2		Route No.	GROUP 3		Route No.	GROUP 4		Route No.	GROUP 5		Route No.
						Lump Rate	Fine Rate		Lump Rate	Fine Rate		Lump Rate	Fine Rate		Lump Rate	Fine Rate	
					CHICAGO, MILWAUKEE ST. PAUL AND PACIFIC RAILROAD												
				565 570 575	Davis Jct....Ill Stillman Valley.....Ill Byron.....Ill	♦207	♦207	1,2, 13	♦212	♦212	1,2, 13	③ ♦210	③ ♦210	3	③ ♦190	③ ♦190	14
				580 585	Leaf River...Ill Adeline.....Ill	♦207	♦207	1,2, 13	♦212	♦212	1,2, 13	③ ♦210	③ ♦210	3	③ ♦190	③ ♦190	14
⊙	8-2-42 (E585)	129	Change and Sup.44	590	Forreston....Ill	♦207	♦207	1,2, 13	♦212	♦212	1,2, 13	③ ♦210	③ ♦210	3	③ ♦190	③ ♦190	14
				595	Harper.....Ill	♦207	♦207	1,2, 13	♦212	♦212	1,2, 13	③ 215	③ 215	3	③ ♦190	③ ♦190	14
				605 607	Lanark.....Ill Fay.....Ill	♦207	♦207	1,2, 13	♦212	♦212	1,2, 13	215	215	3	♦190	♦190	14
				698	Bradt.....Ill	♦189	♦189	7	....	....	...	204	204	④3	....	....	...
				699	De Kalb.....Ill	♦189	♦189	7	....	....	...	③ ♦195	③ ♦195	④3	....	....	...
				700 701 702	Chase.....Ill Troxel.....Ill Duffin.....Ill	184	184	7	....	....	...	♦195	♦195	④3	....	....	...
				725 730 735	Holcomb.....Ill Kings.....Ill Flag Center..Ill	♦207	♦207	1,2, 13	♦212	♦212	1,2, 13	③ ♦210	③ ♦210	3	③ ♦190	③ ♦190	14
				740	Rochelle.....Ill	♦189	♦189	④ 21	♦199	♦199	④ 21	♦195	♦195	3	③ ♦175	③ ♦175	④ 22
⊙	8-2-42 (E585)	130	Change and Sups. 23 and 44	745 750 755 760	Steward Jct..Ill Scarboro.....Ill Roxbury.....Ill Welland.....Ill	♦185	♦185	④ 21	♦195	♦195	④ 21	♦195	♦195	3	③ ♦175	③ ♦175	④ 22
				765	Mendota.....Ill	♦180	♦180	④ 21	♦190	♦190	④ 21	♦190	♦190	3	170	170	④ ♦22
				767 770 775 790 805 810 825 840	Peterstown...Ill Pitchmoor...Ill Ladd.....Ill Cherry.....Ill Seatonville..Ill Howe.....Ill De Pue.....Ill Moronts.....Ill	♦180	♦180	④ 21	♦190	♦190	④ 21	♦190	♦190	3	♦170	♦170	④ 22
				845 860 865 870	Granville....Ill Standard.....Ill Cedar Point..Ill Oglesby.....Ill	♦180	♦180	④ 21	♦190	♦190	④ 21	③ 190	③ 190	3	③ 170	③ 170	④ ♦22

				1020	Beloit.....Wis	⋈ ♦227	⋈ ♦227	1,2, 12, 13	⋈ ♦232	⋈ ♦232	1,2, 12, 13	⋈ 230	⋈ 230	3	⋈ 210	⋈ 210	14
				1050	Rockton.....Ill	♦217	♦217	1,2, 12, 13	♦222	♦222	1,2, 12, 13	♦230	♦230	3	♦210	♦210	14
⊙	8-2-42 (E585)	131	Change	1065	Roscoe Siding, Ill	♦217	♦217	1,2, 13	♦222	♦222	1,2, 13	♦230	♦230	3	♦210	♦210	14
				1070	Latham Park..Ill												
				1085	Rockford.....Ill	♦212	♦212	1,2, 13	♦217	♦217	1,2, 13	♦215	♦215	3	♦195	♦195	14
				1100	Shirland.....Ill												
				1105	Durand.....Ill												
				1110	Davis.....Ill	♦217	♦217	1,2, 13	♦222	♦222	1,2, 13	♦230	♦230	3	♦210	♦210	14
				1115	Rock City...Ill												
				1120	Dakota.....Ill												

For explanation of abbreviations and reference marks, except as shown below, see pages 3, 4 and 65 of tariff and as amended. ⊙ Additions, cancellations and changes effected by this supplement.
Ⓓ Combination rates will apply via routes not brought forward. Increase. ♦ Increase.
⋈ Issued in compliance with order of the Interstate Commerce Commission in Docket 25419. ♦ Reduction.

Reissued, except as noted, from Supplement	TAKING EFFECT	Page of Tariff Affected		BITUMINOUS COAL AS DESCRIBED IN ITEMS 5A AND 10A, PAGE 66 OF TARIFF (AS AMENDED) Rates in Cents per Ton of 2000 Pounds For Routes, see Pages 307 to 318 of Tariff													
				Station No.	TO STATIONS shown on Pages 6 to 64 of tariff, indicated by NUMBERS AND NAMES	From Stations of Origin named on Page 5 of Tariff indicated by Group Numbers											
						GROUPS 1,2		Route No.	GROUP 3		Route No.	GROUP 4		Route No.	GROUP 5		Route No.
						Lump Rate	Fine Rate		Lump Rate	Fine Rate		Lump Rate	Fine Rate		Lump Rate	Fine Rate	
					CHICAGO, MILWAUKEE ST. PAUL AND PACIFIC RAILROAD												
⊙	8-2-42 (E585)	131	Change	1125	Freeport.....Ill	♦212	♦212	1,2, 13	♦217	♦217	1,2, 13	♦215	♦215	3	♦195	♦195	14
				1130	Florence.....Ill	♦212	♦212	1,2, 13	♦217	♦217	1,2, 13	♦215	♦215	3	♦195	♦195	14
				1138	Shannon.....Ill												
					ILLINOIS CENTRAL RAILROAD												
				3025	Hart.....Ill	♦202	♦202	1	♦207	♦207	1	....	....	...	....	....	...
⊙	8-2-42 (E585)	205 206	Change	3030	Colvin Park..Ill												
				3035	Irene.....Ill	♦202	♦202	1	♦207	♦207	1	....	....	...	....	....	...
				3040	Perryville...Ill												
				3045	Rockford.....Ill												
				3050	Alworth.....Ill												
				3055	Seward.....Ill	♦212	♦212	1	♦217	♦217	1	....	....	...	....	....	...
				3060	Evarts.....Ill												

FOLLOWING ROUTE NUMBERS SHOWN UNDER THE VARIOUS DELIVERING CARRIERS CORRESPOND WITH THOSE SHOWN ON PAGES 71 TO 305 OF TARIFF AND AS AMENDED

ROUTE NO.	Via ROUTES TO
	CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD (See Item 220A, Page 306 of tariff as amended)
21	Pennsylvania Railroad, North Judson, Ind., New York Central Railroad, and Ladd, Ill.
22	Pennsylvania Railroad, Decatur, Ill., Illinois Central Railroad, and Mendota, Ill.

⊙ 8-2-42 (E585) 310 Add

For explanation of abbreviations and reference marks, except as shown below, see pages 3, 4 and 65 of tariff and as amended.

⊙ Additions, cancellations and changes effected by this supplement.

♦ Increase.

♦ Reduction.

Rates and charges published in this supplement ARE HEREBY INCREASED as provided in Tariff of Increased Rates and Charges, No. X-148, Agent B. T. Jones' I. C. C. No. 3659, Baltimore and Ohio Railroad Agency No. 2188, supplements thereto or successive issues thereof.

Supplement No. 34
to
I. C. C. No. WL-10705
(Supplements Nos. 9, 14, 18, 27, ①28, 33 and 34 contain all changes)
(Supplement No. 22 under Postponement)
(Supplement No. 31—Postponement Notice)

The Baltimore and Ohio Railroad Company

(Sandusky, Willard, Stewartsville, Belpre, Ohio, and West)

IN CONNECTION WITH PARTICIPATING CARRIERS SHOWN ON PAGE 3 OF TARIFF, AS AMENDED

SUPPLEMENT No. 34

(Supplements Nos. 9, as amended, 14, as amended, 18, as amended, 27, as amended, ①28, 33 and 34 contain all changes)
(Supplement No. 22 under Postponement)
(Supplement No. 31—Postponement Notice)

TO

LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF No. C. T. H 423-C

NAMING RATES ON

BITUMINOUS COAL, Carloads

(Description and Minimum Weight as provided on page 4 of Tariff)

FROM STATIONS ON THE

BALTIMORE AND OHIO RAILROAD

(In the State of Indiana, see page 4 of Tariff)

TO POINTS IN THE STATES OF

Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin and Wyoming, including Louisville, Ky.

①Special Supplement—Increase in rates and charges. (Ex Parte 148)

This tariff, as amended, contains rates that are higher for shorter than longer distances over the same route. Such departure from the terms of the amended fourth section of the Interstate Commerce Act is permitted by authority of Interstate Commerce Commission Fourth Section Orders as indicated on page 24 of tariff, as amended.

Issued June 30, 1932. **Effective August 2, 1942.**

Departure from the terms of Rule 9(e) of Tariff Circular No. 20, is authorized under permission of the Interstate Commerce Commission, No. 7920, of March 17, 1942.

O. S. LEWIS,
General Freight Traffic Manager,
Baltimore, Md.

G. M. CAMPBELL,
Coal Traffic Manager,
Baltimore, Md.

S. I. THOMPSON,
General Coal Freight Agent,
Baltimore, Md.

STAMP HERE

DATE RECEIVED

F. M. JORDAN,
General Coal Freight Agent,
Pittsburgh, Pa.

H. O. BIAS,
Coal Freight Agent,
Cincinnati, Ohio.

Issued by
A. M. SCHUBERT, Freight Tariff Agent,
500 Temple Bar Bldg., Court and Main Streets,
CINCINNATI, OHIO.

1100-B-3807.
(P. O. No. 19036-FES.)

(Files Tar. 2020, CD-600.)

(Made in U. S. A.)

2865

1619

Page 22 of Tariff—Amend: **EXPLANATION OF REFERENCE MARKS**

♦**Advance.** (A. S. No. C-1048, File CD-2607)
♦**Reduction.** (A. S. No. C-1048, File CD-2607)
§Issued in compliance with Order of the Interstate Commerce Commission in Docket 25419, as amended, and related cases of March 3, 1942.
(72)Applies only via Baltimore and Ohio Railroad, Decatur, Ill., Illinois Central Railroad, Mendota, Ill. and Chicago, Milwaukee, St. Paul and Pacific Railroad.
(73)Applies only via Routes shown on page 77 of tariff, as amended.
(74)**Cancel.** See Station No. 1090.

Amend Pages 30 to 43 of Tariff, as amended on Page 4 of Supplement No. 27:

RATES IN CENTS PER TON OF 2,000 POUNDS

For Commodity Description and Minimum Weights or Bituminous Coal Taking Columns A and B Rates, See Page 4 of Tariff

Station No.	To	From Stations in Groups (See Page 4 of Tariff) 1 Rate Column A	1 Rate Column B	2 Rate Column A	2 Rate Column B
	Chicago and North Western Railway				
90	Geneva Ill	(72)♦189			
95	La Fox Ill				
100	Elburn Ill	♦189			
105	Maple Park Ill				
110	Cortland Ill				
115	De Kalb Ill				
120	Malta Ill				
125	Creston Ill				
130	Rochelle Ill	♦189		♦219	
135	Flagg Ill				
140	Ashton Ill				
145	Franklin Grove Ill				
150	Nachusa Ill				
155	Dixon Ill	♦189		♦206	
160	Nelson Ill				
165	Sterling (Rock Falls) Ill				
265	Belvidere Ill				
270	Cherry Valley Ill				
275	Rockford Ill				
280	Winnebago Ill	♦212		♦229	
285	Pecatonica Ill				
290	Ridott Ill				
295	Freeport Ill				
315	St. Charles Ill	♦189			
420	Sycamore Ill	♦189		♦219	
4125	Roscoe Ill	♦227		♦239	
4130	Beloit Wis	§♦227		§♦244	

Station No.	To	From Stations in Groups (See Page 4 of Tariff) 1 Rate Column A	1 Rate Column B	2 Rate Column A	2 Rate Column B
	Chicago Great Western Railroad —Concluded				
90	Clare Ill				
95	Esmond Ill				
100	Lindenwood Ill				
105	Holcomb Ill				
110	Stillman Valley Ill	♦207		♦219	
115	Byron Ill				
120	Myrtle Ill				
125	Egan Ill				
130	German Valley Ill				
135	South Freeport Ill				
	Chicago, Milwaukee, St. Paul and Pacific Railroad				
550	Kirkland Ill	§♦190			
565	Davis Jct Ill				
570	Stillman Valley Ill				
575	Byron Ill				
580	Leaf River Ill				
585	Adeline Ill	♦200			
590	Forreston Ill				
595	Harper Ill				
665	Lanark Ill				
607	Fay Ill				
699	De Kalb Ill	♦189			
720	Camp Grant Ill	♦(74)			
725	Holcomb Ill				
730	Kings Ill	♦207			
735	Flag Center Ill				
740	Rochelle Ill	(73)§♦189 (73)♦207			

	Chicago Great Western Railroad								
50	St. Charles	Ill							
60	Wasco	Ill							
65	Lily Lake	Ill							
70	Virgil	Ill							
			♦189		♦201				
75	Richardson	Ill							
80	Sycamore	Ill							
82	De Kalb	Ill							
84	Five Points	Ill							
85	Wilkinson	Ill	♦195		♦207				
745	Steward Junction	Ill							
750	Scarboro	Ill	(72)♦185						
755	Roxbury	Ill	(73)♦207						
760	Welland	Ill							
765	Mendota	Ill							
775	Ladd	Ill							
790	Cherry	Ill							
805	Seatonville	Ill							
810	Howe	Ill							
825	Depue	Ill	(72)♦180						
			(73)♦207						
840	Moronts	Ill							
845	Granville	Ill							
860	Standard	Ill							
865	Cedar Point	Ill							
870	Oglesby	Ill							

(28) Will not apply for delivery at St. Charles School for Boys. Rates for delivery to St. Charles School for Boys will be the rates published herein to Geneva, Ill., plus $3.85 per car, as per Chicago and Northwestern Railway Tariff No. 8408-S, I. C. C. No. 10940, Ill. C. C. No. 870, supplements thereto or successive issues thereof. (A. S. Nos. C-440, C-847)

For explanation of other Reference Marks, see page 22 of tariff, as amended.

2866

1620

Amend Pages 43 to 53 of Tariff, as amended:

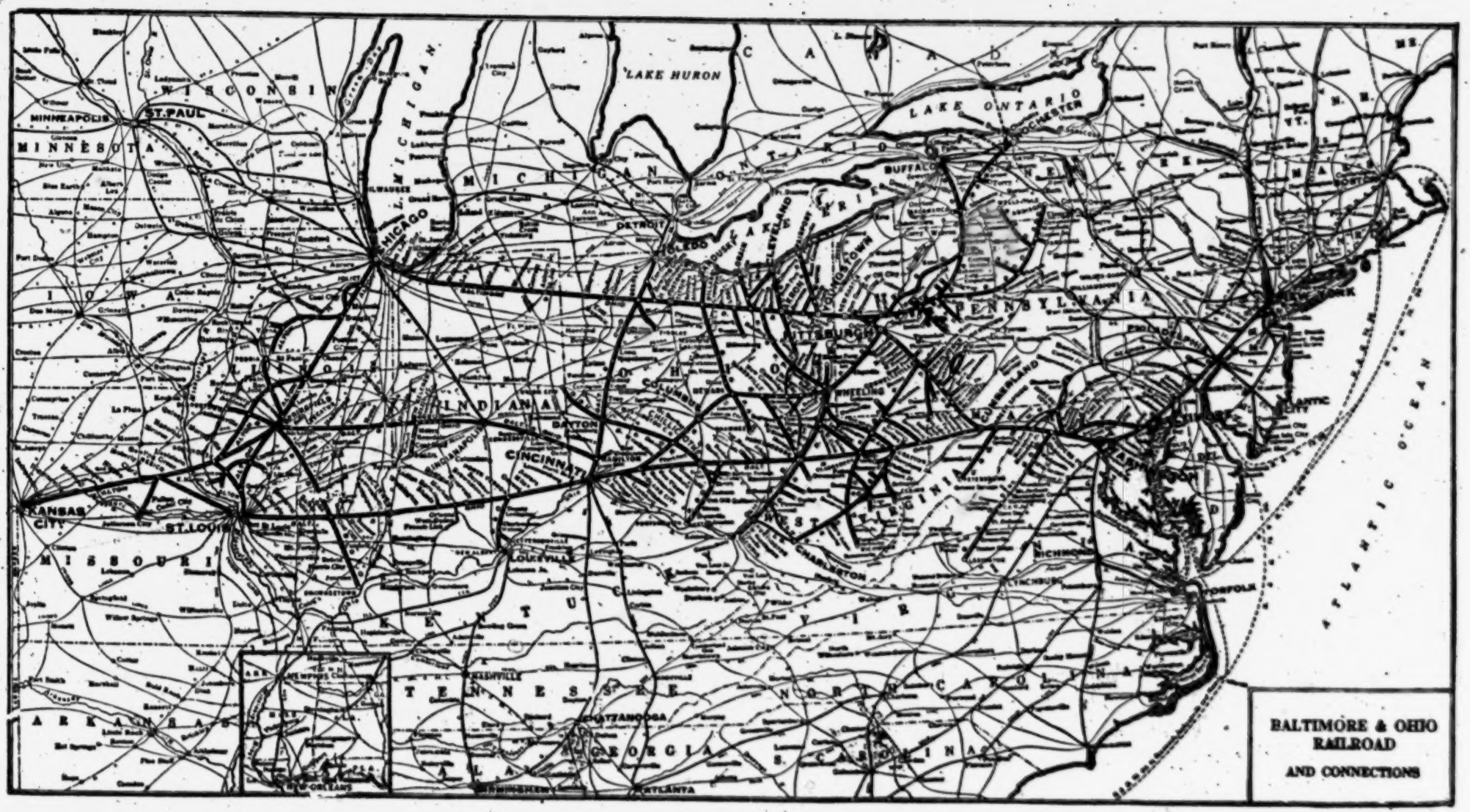
RATES IN CENTS PER TON OF 2,000 POUNDS

For Commodity Description and Minimum Weights of Bituminous Coal Taking Columns A and B Rates, See Page 4 of Tariff

Station No.	To	From Stations in Groups (See Page 4 of Tariff) 1 Rate Column A	1 Rate Column B	2 Rate Column A	2 Rate Column B
	Chicago, Milwaukee, St. Paul and Pacific Railroad —Concluded				
1020	Beloit ..... Wis	⊙§♦227			
1050	Rockton Ill	♦217			
1085	Rockford Ill	♦212			
1090	Camp Grant Ill				
1100	Shirland Ill				
1105	Durand Ill				
1110	Davis Ill	♦217			
1115	Rock City Ill				
1120	Dakota Ill				
1125	Freeport Ill				
1130	Florence Ill	♦212			
1135	Shannon Ill				
	Illinois Central Railroad				
3030	Colvin Park Ill				
3035	Irene Ill	♦202			
3040	Perryville Ill				
3045	Rockford Ill				
3050	Alworth Ill				
3055	Seward Ill	♦212			
3060	Evarts Ill				
3065	Freeport Ill				
3155	Forreston Ill	♦207			
3175	North Dixon Ill	♦189			
3180	Dixon Ill				
3515	Eleroy Ill	♦212			

⊙Applies only via Chicago, Milwaukee, St. Paul and Pacific Railroad through Davis Junction, Ill. (A. S. No. C-626)

For explanation of other Reference Marks, see page 22 of tariff, as amended.


WISCONSIN
MINNESOTA
MINNEAPOLIS
ST. PAUL
MICHIGAN
LAKE HURON
LAKE ONTARIO
CANADA
IOWA
ILLINOIS
INDIANA
OHIO
PENNSYLVANIA
NEW YORK
WEST VIRGINIA
VIRGINIA
KENTUCKY
TENNESSEE
NORTH CAROLINA
SOUTH CAROLINA
GEORGIA
ALABAMA
MISSISSIPPI
ARKANSAS
MISSOURI
CHICAGO
DETROIT
TOLEDO
CLEVELAND
BUFFALO
ROCHESTER
PITTSBURGH
WHEELING
CINCINNATI
DAYTON
COLUMBUS
INDIANAPOLIS
LOUISVILLE
KANSAS CITY
ST. LOUIS
NASHVILLE
CHATTANOOGA
MEMPHIS
NEW ORLEANS
BIRMINGHAM
ATLANTA
CHARLESTON
RICHMOND
NORFOLK
ATLANTIC OCEAN
BALTIMORE & OHIO RAILROAD
AND CONNECTIONS

2868

Subject to Tariff of Increased Rates and Charges No. X 148, Agent B T. Jones' I.C.C. No. 3659, Ill.C.C. No. 475, Ind.R.C. No. D 698, M.P.S.C. No. 633, Ohio No. 2015, supplements thereto or successive issues thereof.

The operation of portions of Tariff, as amended, referred to in Supplement No. 39, is suspended as provided in said supplement.

SUPPLEMENT No. 54
Cancels Supplement No. 53

To

Ill.C.C. No. 22
Ind.R.C. No. 28

M.P.S.C. No. 28
Ohio No. 42

I.C.C. No. 164

FREIGHT TARIFF No. 385

Supplements Nos. (41) 26, (42) 39, 42, 45, (43) 50, 51, 52 and 54 contain all changes from the original tariff that are effective on the date hereof.

NEW YORK CENTRAL SYSTEM

THE NEW YORK CENTRAL RAILROAD COMPANY

IN CONNECTION WITH

PARTICIPATING CARRIERS SHOWN ON PAGES 3 TO 5 OF TARIFF

Local Joint and Proportional Freight Tariff

NAMING RATES IN CENTS PER TON OF 2,000 POUNDS

ON

COAL, BITUMINOUS, AND COAL BRIQUETTES, BITUMINOUS

Carloads

FROM STATIONS ON	TO STATIONS IN		
NEW YORK CENTRAL RAILROAD (Cleveland, Cincinnati, Chicago and St. Louis District) and other Initial Carriers named on Page 3 of Tariff	ALABAMA	KENTUCKY	OHIO
	ARKANSAS	MICHIGAN	OKLAHOMA
	COLORADO	MINNESOTA	PENNSYLVANIA
	FLORIDA	MISSISSIPPI	SOUTH DAKOTA
	ILLINOIS	MISSOURI	TENNESSEE
	INDIANA	MONTANA	WISCONSIN
	IOWA	NEBRASKA	WYOMING
	KANSAS	NORTH DAKOTA	

ALSO

LOCAL DISTANCE RATES

As Named on Pages 323 and 324 of Tariff

(Applying on Bituminous and Anthracite Coal and Coal Briquettes)

ISSUED JULY 1, 1942

EFFECTIVE AUGUST 2, 1942
(Except as otherwise provided herein)

Departure from the terms of Rule 9(e) of Tariff Circular No. 20 is authorized under Permission of the Interstate Commerce Commission No. 7920 of March 17, 1942

(A1) Contains only matter under postponement.
(A2) Special Supplement (Blanket 56-S.O. 68)
(A3) Special Supplement Ex Parte 148

W. B. WOOD,
Coal Freight Agent,
CINCINNATI, OHIO

Issued by CHAS. COUGHLIN,
Chief of Tariff Bureau,
466 Lexington Avenue,
NEW YORK, N.Y.

(MV-4889-4-2900-CHC-MJP) (Printed in U.S.A.) (S.P. 7920-V180-29. N5 + 1)

1623

EXPLANATION OF REFERENCE MARKS

♦ Reduction ♦ Increase
+ Applies only on Intrastate traffic.
† Applies only on Interstate traffic.
(14) Coal consigned to St. Charles School for Boys is $3.85 per car over rates to Geneva, Ill.
(16) Published in connection with Order of the Interstate Commerce Commission in Docket 25419, dated July 20, 1933.
(17) Published in compliance with Order of the Interstate Commerce Commission dated March 3, 1942, in Docket 25419, et al.
(18) Terminal Rate. Does not apply at intermediate points and issued under authority of Illinois Railroad and Warehouse Commission Order 1139 Dated June 26, 1913 in conjunction with General Order No. 125 of the Illinois Commerce Commission Dated July 7, 1931 and in connection with Illinois Commerce Commission 40th Section Order No. 29 dated September 5, 1933 as amended by General Commodity Rate Increases 1937, Ex Parte 115.
(24) Rate will not apply to intermediate points. Authority Interstate Commerce Commission Fourth Section Order No. 11427, dated November 22, 1933.
53 Reissued from Sup. 53 effective July 2, 1942.

Index No.	TO STATION	Rates From Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups: 1 Harrisburg L	1 Harrisburg F	2 Hillsboro L	2 Hillsboro F	3 Terre Haute L	3 Terre Haute F	4 Danville L	4 Danville F	5 Evansville L	5 Evansville F	6 E S & N L	6 E S & N F	7 Clay City L	7 Clay City F	8 Petersburg L	8 Petersburg F
	C&NW																
Pages 97 and 98 of Tariff. Change:																	
90	(14) Geneva....Ill.																
95	La Fox....Ill.																
100	Elburn....Ill.																
105	Maple Park....Ill.	♦205		♦175		♦189		♦185		♦219		221½		♦194		♦201	
110	Cortland....Ill.																
115	De Kalb....Ill.																
120	Malta....Ill.																
125	Creston....Ill.																
130	Rochelle....Ill.																
135	Flagg....Ill.																
140	Ashton....Ill.	♦205		♦175		♦189		♦185		♦232		♦234½		♦199		♦206	
145	Franklin Grove....Ill.																
150	Nachusa....Ill.																
155	Dixon....Ill.																
160	Nelson....Ill.																
165	Sterling (Rock Falls)....Ill.																
235	Gilberts....Ill.																
245	Huntley....Ill.																
250	Union....Ill.	♦ 225		♦195		197		♦ 195		227		229½		202		209	
255	Marengo....Ill.																
260	Garden Prairie....Ill.																
265	Belvidere....Ill.																
270	Cherry Valley....Ill.																
275	Rockford....Ill.																
280	Winnebago....Ill.	♦225		♦195		♦212		♦195		♦242		♦244½		♦217		♦224	
285	Pecatonica....Ill.																
290	Ridott....Ill.																
295	Freeport....Ill.																
315	St. Charles....Ill.	♦205		♦175		♦189		♦185		♦219		♦221½		♦194		♦201	
420	Sycamore....Ill.	♦205		♦175		♦189		♦185		♦219		♦221½		♦194		♦201	
Page 105 of Tariff. Change:																	
4125	Roscoe....Ill.	240		210		♦227		210		♦257		♦259½		♦232		♦239	
4130	Beloit....Wis.	(17) 240		(17) 210		(17) ♦227		(17) 210		(17) 257		(17) 259½		(17) 232		(17) 239	

4150	Beloit.....Wis.	(illegible)	(illegible)	(illegible)	(illegible)	(illegible)	(illegible)	(illegible)	(illegible)
	CB&Q								
Pages 120 and 121 of Tariff. Change:									
625	Rochelle.....Ill.	♦ (illegible) + 205	....	....	....	....	....	....	....
715	Rockford.....Ill.	♦ 225	....	....	....	....	....	....	....
775	Rock Falls.....Ill.	♦ (illegible) + 205	....	....	....	....	....	....	....
780	Sterling.....Ill.								
1565	Barstow.....Ill.	♦205	....	....	....	....	....	....	....
1570	Cleveland.....Ill.								
1580	Briar Bluff.....Ill.								
1585	Warner.....Ill.								
1590	Orion.....Ill.								
1595	Lynn.....Ill.								
1600	Ophiem.....Ill.								
1605	Henderson.....Ill.								
1610	Rio.....Ill.								
	CGW								
Page 134 of Tariff. Change:									
50	St. Charles.....Ill.	♦ 205	♦ 175	♦ 189	♦ 185	....	....	♦ 194	♦ 201

For Explanation of Abbreviations and Notes, see pages 71 and 74 of Tariff; Column Letters see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

TO		Rates from Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups													
		1 Harris-burg		2 Hills-boro		3 Terre Haute		4 Dan ville		5 Evans ville		6 E S & N		7 Clay City		8 Peters burg	
Index No	STATION	L	F	L	F	L	F	L	F	L	F	L	F	L	F	L	F
	CGW																
	Page 134 of Tariff Change																
60	Wasco Ill.																
65	Lily Lake Ill.																
70	Virgil Ill.	205		175		♦189		♦185						♦194		♦201	
75	Richardson Ill.																
80	Sycamore Ill.																
82	DeKalb Ill.	♦205		♦175		♦189		♦185						♦194		♦201	
84	Five Points Ill.	♦215		♦185		♦189		♦185						♦194		♦201	
85	Wilkinson Ill.	♦215		♦185		♦195		♦185						♦200		♦207	
90	Clare Ill.																
95	Esmond Ill.																
100	Lindenwood Ill.																
105	Holcomb Ill.																
110	Stillman Valley Ill.	♦220		♦190		♦207		♦190						♦212		♦219	
115	Byron Ill.																
120	Myrtle Ill.																
125	Egan Ill.																
130	German Valley Ill.																
135	South Freeport Ill.																
	CMStP&P																
	Page 140 of Tariff Change																
565	Davis Jct Ill.																
570	Stillman Valley Ind.	♦220		♦190		♦200		♦190		♦230		♦232½		♦205		♦212	
575	Byron Ill.																
	Page 140 of Tariff as amended by page 9 of Sup. 42 Change:																
580	Leaf River Ill.																
585	Adeline Ill.	♦220		♦190		♦200		♦190		♦230		♦232½		♦205		♦212	
	Page 140 and 141 of Tariff Change:																
590	Forreston Ill.	♦220		♦190		♦200		♦190		♦230		♦232½		♦205		♦212	
595	Harper Ill.																
605	Lanark Ill.	225		♦190		♦200		♦190		♦230		♦232½		♦205		♦212	
607	Fay Ill.																
696	Nickols Ill.																
697	Wilkinson Ill.	220		180		190		♦185		220		222½		195		202	
698	Bradt Ill.																
699	DeKalb Ill.	♦205		♦175		♦189		♦185		♦219		♦221½		189		♦201	
700	Chase Ill.																
701	Troxel Ill.	♦205		♦175		184		180		214		216½		189		196	
702	Duffin Ill.																
720	Camp Grant Ill.	♦225		♦195		♦212		♦195		♦242		♦244½		♦217		♦(4)237 ♦(4)224	
725	Holcomb Ill.																
730	Kings Ill.	♦220		♦190		♦207		♦190		♦237		♦239½		♦212		♦219	
735	Flag Center Ill.																
740	Rochelle Ill.	♦205		♦175		♦189		♦185		♦232		♦234½		♦199		♦206	
745	Steward Junction Ill.																
750	Scarboro Ill.																
756	Roxbury Ill.	♦205		♦175		♦185		♦185		♦232		♦234½		♦199		♦202	
760	Welland Ill.																

Page 142 of Tariff 53 Change:									
1005	Clinton Jct.	Wis.	(17) 279	(17) 249	(17) 249	(17) 249	(17) 299	(17) 301½	(17) 259	(17) 286
1010	Porters	Wis.								
1015	Morgan's Farm	Wis.	....	....	....	....	....	....	....	(17) 286
Page 142 of Tariff Change:									
1020	Beloit	Wis.	♦(17) 240	(17) 210	♦(17) 227	♦(17) 210	(17) 257	(17) 259½	♦(17) 232	♦(17) 239
1050	Rockton	Ill.								
1065	Roscoe Siding	Ill.	♦ 240	♦ 210	♦ 217	♦ 210	♦ 247	♦ 249½	♦ 222	♦ (47) 239 ♦ (45) 229
1070	Latham Park	Ill.								
1085	Rockford	Ill.	♦ 225	♦ 195	♦ 212	♦ 195	♦ 242	♦ 244½	♦ 217	♦ (47) 237 ♦ (45) 224

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, See Note 1 of Tariff Reference Marks, see page 2 of this Supplement.

TO		Rates From Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups													
		1 Harrisburg		2 Hillsboro		3 Terre Haute		4 Danville		5 Evansville		6 ES&N		7 Clay City		8 Petersburg	
Index No	STATION	L	F	L	F	L	F	L	F	L	F	L	F	L	F	L	F
	CMStP&P																
Page 142 of Tariff Change																	
1100	Shirland Ill																
1105	Durand Ill																
1110	Davis Ill	♦ 240		♦ 210		♦ 217		♦ 210		♦ 247		♦ 249½		♦ 222		♦ (47) 239 ♦ (49) 229	
1115	Rock City Ill																
1120	Dakota Ill																
1125	Freeport Ill	♦ 225		♦ 195		♦ 212		♦ 195		♦ 242		♦ 244½		♦ 217		♦ 224	
1130	Florence Ill																
1135	Shannon Ill	♦ 225		♦ 195		♦ 212		♦ 1 95		♦ 242		♦ 244½		♦ 217		♦ 224	
Page 142 of Tariff 53 Change																	
1235	Milton Jct Wis	(II) 283		(II) 253		(II) 253		(II) 253		(II) 303		(II) 305½		(II) 263		(II) 270	
Page 143 of Tariff 53 Change																	
1505	Janesville Wis	(II) 279		(II) 249		(II) 249		(II) 249		(II) 299		(II) 301½		(II) 259		(II) 266	
	IC																
Page 207 of Tariff Change																	
3025	Hart Ill																
3030	Colvin Park Ill																
3035	Irene Ill	♦ 225		♦ 185		♦ 202		♦ 195		....		....		♦ 207		♦ 214	
3040	Perryville Ill																
Page 207 of Tariff as amended by page 12 of Sup. 42 Change																	
3042	Rockford Ill	♦ 225		♦ 195		♦ 212		♦ 195		....		....		♦ 217		♦ 224	
Page 207 of Tariff Change																	
3050	Alworth Ill																
3055	Seward Ill	♦ 225		♦ 195		♦ 212		♦ 195		....		....		♦ 217		♦ 224	
3060	Evarts Ill																
Page 207 of Tariff as amended by page 12 of Sup. 42 Change																	
3065	Freeport Ill	♦ 225		♦ 195		♦ 212		♦ 195		....		....		♦ 217		♦ 224	
Page 207 of Tariff Change																	
3150	Baileyville Ill	♦ 225		♦ 195		♦ 212		♦ 212		....		....		♦ 217		♦ 224	
3155	Forreston Ill																
3160	Haldane Ill																
3165	Polo Ill	♦ 220		♦ 190		♦ 207		♦ 207		....		....		♦ 212		♦ 219	
3170	Woosung Ill																
3175	North Dixon Ill	♦ 205		♦ 175		♦ 189		♦ 189		....		....		♦ 199		♦ 206	
3180	Dixon Ill	♦ 205		♦ 175		♦ 189		♦ 189		....		....		♦ 199		♦ 206	
3185	Eldena Ill																
3190	Amboy Ill	♦ 205		♦ 175		♦ 189		....		....		....		♦ 199		♦ 206	
3515	Elroy Ill	238		♦ 208 + 203		♦ 212		♦ 208 + 203		....		....		218		225	

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

SUBJECT TO TARIFF OF INCREASED RATES AND CHARGES No. X-148, AGENT B. T. JONES' I. C. C. No. 3659, ILL. C. C. No. 475, IND. R. C. No. D-693, M. P. S. C. No. 633, OHIO No. 2015, SUPPLEMENTS THERETO OR SUCCESSIVE ISSUES THEREOF.

THE OPERATION OF PORTIONS OF TARIFF, AS AMENDED, REFERRED TO IN SUPPLEMENT No. 39, IS SUSPENDED AS PROVIDED IN SAID SUPPLEMENT.

SUPPLEMENT No. 56

Cancels Supplements Nos. 51, 52 and 54.

TO

Ill. C. C. No. 22 | **M. P. S. C. No. 28** | **I. C. C. No. 164**

Ind. R. C. No. 28 | **Ohio No. 42**

FREIGHT TARIFF No. 385

Supplements Nos. (A)26, (A)39, 42, 45, (A)50, 55 and 56 contain all changes from the original tariff that are effective on the date hereof.

NEW YORK CENTRAL SYSTEM

THE NEW YORK CENTRAL RAILROAD COMPANY

IN CONNECTION WITH

PARTICIPATING CARRIERS SHOWN ON PAGES 3 TO 5 OF TARIFF

LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF

NAMING RATES IN CENTS PER TON OF 2,000 POUNDS

ON

Coal, Bituminous, and Coal Briquettes, Bituminous

CARLOADS

FROM STATIONS ON	TO STATIONS IN		
NEW YORK CENTRAL RAILROAD (Cleveland, Cincinnati, Chicago and St. Louis District) And Other Initial Carriers Named on Page 3 of Tariff	ALABAMA ARKANSAS COLORADO FLORIDA ILLINOIS INDIANA IOWA KANSAS	KENTUCKY MICHIGAN MINNESOTA MISSISSIPPI MISSOURI MONTANA NEBRASKA NORTH DAKOTA	OHIO OKLAHOMA PENNSYLVANIA SOUTH DAKOTA TENNESSEE WISCONSIN WYOMING

ALSO

LOCAL DISTANCE RATES

AS NAMED ON PAGES 223 AND 224 OF TARIFF

(Applying on Bituminous and Anthracite Coal and Coal Briquettes)

ISSUED JULY 9, 1942

EFFECTIVE AUGUST 10, 1942
(Except as otherwise provided herein.)

(40) Contains only matter under postponement.
(42) Special Supplement (Blanket 56-S. O. 68).
(43) Special Supplement Ex Parte 148.

H. B. WOOD,
Coal Freight Agent,
Cincinnati, Ohio.

(E-4931-2900-B. L. K.)

Issued by
CHAS. COUGHLIN,
Chief of Tariff Bureau,
466 Lexington Avenue,
NEW YORK, N. Y.

(S. P. 7920—V180-29, N5+1)

RECEIVED		
Month	Day	Year

PRINTED IN U. S. A.

2873

1927

(58)The effective date of Supplement No. 26 is hereby further postponed until November 9, 1942.
Pending restoration, reissue or cancellation of the matter under postponement, rates named in tariff, as amended, will apply.

PARTICIPATING CARRIERS.

List of Participating Carriers is as shown in Tariff, except:

Abbreviations	CARRIER	CONCURRENCES					
		I. C. C.		Ill. C. C.		Ind. R. C.	
		FX	No.	FX	No.	FI	No.
	Intermediate and Terminal						
S&SW	(58)Springfield & Southwestern Railroad Company	(116)5	74	(116)5	28		

ALPHABETICAL LIST OF STATIONS TO WHICH RATES APPLY.

The Index Numbers of Stations in this Supplement correspond with the Index Numbers of the same stations shown on pages 6 to 71, inclusive, of the Tariff, with the following additions and exceptions:

STATION	Road	Index No.	STATION	Road	Index No.	STATION	Road	Index No.
⊙Coatea.....Minn.	CGW	805	Jeffersonville.....Ind.	B&O	13785	Rosemont (Gopher Ordnance Works).....Minn.	CGW	805
						Stringer.....Ark.	StLSW	762

EXPLANATION OF REFERENCE MARKS.

♦ Reduction. ⊙ Cancel.
▲ Change in wording which results in neither increases nor reduction in charges.
✦ Applies only on Intrastate Traffic. † Applies only on Interstate Traffic.
ƒ For routing from mines on ES&N, see page 325 of Tariff, as amended.
(A) Effective August 15, 1942.
(3) Rate from Pana, Ill., will be 10 cents per ton of 2,000 pounds in excess of rate shown.
(8) Issued in compliance with order of the Interstate Commerce Commission in Docket No. 23922, dated January 24, 1933, amended March 29, 1933.
(14) Coal consigned to St. Charles School for Boys is $3.85 per car over rates to Geneva, Ill.
(47) Applies only from stations on the A. W. & W.
(48) Will not apply from stations on the A. W. & W.
(25) Applies on Bituminous Coal which has been passed through a bar screen not exceeding one and one-half (1½) inches between bars, or its equivalent, a two (2) inch mesh or two (2) inch round perforation; with the following exception: Will not apply on sizes of Coal commonly known as No. 2 Nut, No. 3 Nut or No. 4 Nut, mixtures therefrom which are nut sizes, but from which carbon or No. 5 Coal has been removed.
(26) Applies only on size of coal commonly known as No. 2 Nut. No. 3 Nut, or No. 4 Nut, or mixtures therefrom, which are nut sizes, but from which the carbon or No. 5 Coal has been re moved.
(29) Published to meet Gas Pipe Line competition.
(114) Issued by the Chicago, Springfield & St. Louis Railway Company (Elmer Nafziger, Receiver)
(115) Cancel. Account rates obsolete. Combination rates will apply.
(116) Cancel. Account located within Bay City, Mich. switching limits.
(117) Published in compliance with order of the Interstate Commerce Commission dated March 3, 1942, in Docket 25419, et al.
(118) Terminal Rate. Does not apply at intermediate points and issued under authority of Illinois Railroad and Warehouse Commission Order 1139 Dated June 26, 1913 in conjunction with General Order No. 125 of the Illinois Commerce Commission Dated July 7, 1931 and in connection with Illinois Commerce Commission 40th Section Order No. 29 dated September 5, 1933 as amended by General Commodity Rate increases 1937, Ex Parte 115.
(11) Authority Interstate Commerce Commission, Fourth Section Order No. 12207, dated January 23, 1936.
(13) Published under authority of Interstate Commerce Commission's Fourth Section Order No. 11242.
(42) See Note 15 of Tariff, as amended.
(43) See Note 18 of Tariff, as amended.
(46A) Reissued from Supplement No. 46, effective April 16, 1942.
(48) Reissued from Supplement No. 48.
(49) Reissued from Supplement No. 49, effective June 15, 1942.
(51) Reissued from Supplement No. 51, effective July 2, 1942.
(52) Reissued from Supplement No. 52, effective July 12, 1942.
(53) Reissued from Supplement No. 53, effective July 2, 1942.
(54) Reissued from Supplement No. 54, effective August 2, 1942.

EXPLANATION OF NOTES.

Note 16. Cancels Note 16, page 74 of Tariff, as amended by page 4 of Sup. 42. Expires with December 31, 1942, unless sooner cancelled, changed or extended

Note 19. Cancels Note 19, page 74 of Tariff, as amended by page 4 of Sup. 42. Effective January 1, 1943, unless sooner cancelled, changed or postponed.

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

52 **Rule No. 15. Cancels Rule No. 15, page 75 of Tariff, as amended by page 2 of Sup. 49.**

APPLICATION OF RATES FROM AYRSHIRE MINE No. 8, IND., BRYANT, IND., CANAL, IND., CATO, IND., ENOSVILLE, IND., GLOBE, IND., AND MUREN, IND., ON THE ALGERS, WINSLOW AND WESTERN RAILWAY.

Rates published from Group No. 8, to stations on the following named carriers, viz.:

AT&SF stations, viz.:
Index Nos. 25 to 55.
B&O stations, viz.:
Index Nos. 13220, 13515 to 13550, 15560 to 15725.
CR&IC when via IC only.
C&O.
C&EI.
C&NW stations, viz.:
Index Nos. 355, 360, 650 to 730, 1175 to 1220, 4125 to 4180, 4815, 4820, when via AW&W, Oakland City Jct., Ind., NYC(C)—Danville, Ill., NYC(W)—Chicago, Ill. and C&NW or AW&W—Oakland City Jct., Ind., NYC(C)—Danville, Ill., NYC(W)—Hartsdale, Ind., EJ&E.
CG&W and Short Line Connections, viz.:
DM&CI.
FDDM&S.
M&On.
MD&CL.
MN&S.
WCF&N.
When via CGW.
CMStP&P stations, viz.:
Index Nos. 1005 to 1015.
Index Nos. 1020, 1050 to 1070, 1085, 1235 to 1255, 1505, 1510, when via AW&W—Oakland City Jct., Ind., NYC(C)—Danville, Ill., NYC(W)—Chicago, Ill., or AW&W—Oakland City Jct., Ind., NYC(C)—Danville, Ill., NYC(W)—Hartsdale, Ind., EJ&E.;
IC.
IllT stations, viz.:
Index Nos. 960 to 1315.
IHB.
M&StL and Short Line Connections, viz.:
DM&CI.
FDDM&S, MC&CL when via M&StL.
NYC(C).
NYC(K).
NYC(M).
NYC(W).
NYC&StL in Illinois.
PRR.
Wab.
WCF&N, when via IC.
WRR.

will also apply from:

Ayrshire Mine No. 8, Ind., Bryant, Ind., Canal, Ind., Cato, Ind., Enosville, Ind., Globe, Ind., and Muren, Ind., on the Algers, Winslow and Western Railway.

Rule No. 55 Cancels Rule No. 55, page 76 of Tariff, as amended by page 5 of Sup. 42.

MINIMUM WEIGHT.

(a) On Bituminous Coal loaded in open-top cars, minimum weight will be the marked capacity of car loaded, except that when car is loaded to full visible capacity, actual weight of coal will be the minimum weight.

(b) On Bituminous Coal loaded in box or stock cars, with marked capacity of 80,000 pounds or less, the minimum weight will be 60,000 pounds; in cars of marked capacity over 80,000 pounds, the minimum weight will be 80,000 pounds.

See the Official Railway Equipment Register I. C. C.-R. E. R. No. 264, Ind. R. C.-R. E. R. No. 264, Ill. C. C.-R. E. R. No. 264, M. P. S. C.-R. E. R. No. 264, issued by Agent M. A. Zenobia, or subsequent issues for list of car numbers, marked capacity, dimensions and cubical capacity of freight cars used to transport freight.

TO		Rates From Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups															
		1 Harrisburg		2 Hillsboro		3 Terre Haute		4 Danville		5 Evansville		6 ES&N		7 Clay City		8 Petersburg	
Index No.	STATION	L	F	L	F	L	F	L	F	L	F	L	F	L	F	L	F
	--AT&SF																
Page 86 of Tariff. Ⓐ Change:																	
1300	Pauline.....Kan.	♣349	360	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	B&O																
Page 92 of Tariff. ⓜ Add:																	
13785	Jeffersonville.....Ind.		231	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Page 92 of Tariff. ⓜ Change:																	
15545	Dana.....Ind.		183		169	.....	.....		100	.....	.....	.....	.....	.....	.....	.....	.....
15560	Raven.....Ill.		183		169		ⓑ90		100	.....	.....	.....	.....		ⓑ116		ⓑ155
15565	Scotland.....Ill.																

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

TO		Rates From Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups													
		1 Harrisburg		2 Hillsboro		3 Terre Haute		4 Danville		5 Evansville		6 ES&N		7 Clay City		8 Petersburg	
Index No.	STATION	L	F	L	F	L	F	L	F	L	F	L	F	L	F	L	F
	C&NW																
Pages	**97 and 98 of Tariff. [54]Change:**																
90	(10)Geneva.....Ill.																
95	La Fox.....Ill.																
100	Elburn.....Ill.																
105	Maple Park.....Ill.		205		175		189		185		219		221½		194		201
110	Cortland.....Ill.																
115	De Kalb.....Ill.																
120	Malta.....Ill.																
125	Creston.....Ill.																
130	Rochelle.....Ill.																
135	Flagg.....Ill.																
140	Ashton.....Ill.		205		175		189		185		232		234½		199		206
145	Franklin Grove.....Ill.																
150	Nachusa.....Ill.																
155	Dixon.....Ill.																
160	Nelson.....Ill.																
165	Sterling (Rock Falls)Ill.																
235	Gilberts.....Ill.																
245	Huntley.....Ill.																
250	Union.....Ill.		225		195		197		195		227		229½		202		209
255	Marengo.....Ill.																
260	Garden Prairie.....Ill.																
265	Belvidere.....Ill.																
270	Cherry Valley.....Ill.																
275	Rockford.....Ill.																
280	Winnebago.....Ill.		225		195		212		195		242		244½		217		224
285	Pecatonica.....Ill.																
290	Ridott.....Ill.																
295	Freeport.....Ill.																
315	St. Charles.....Ill.		205		175		189		185		219		221½		194		201
420	Sycamore.....Ill.		205		175		189		185		219		221½		194		201
Page 9	**9 of Tariff. [51]Change:**																
720	Clinton Jct.....Wis.																
725	Tiffany.....Wis.		(11)279		(11)249		(11)249		(11)249		(11)299		(11)301½		(11)259		(11)266
730	Janesville.....Wis.																
Page 1	**00 of Tariff. Change:**																
1220	Milton Jct.....Wis.																
1225	Koshkonong.....Wis.		(11)283		(11)253		(11)253		(11)253		(11)303		(11)305½		(11)263		(11)270
1230	Ft. Atkinson.....Wis.																
Page 1	**05 of Tariff. [54]Change:**																
4125	Roscoe.....Ill.		240		210		227		210		257		259½		232		239
4130	Beloit.....Wis.		(11)240		(11)210		(11)227		(11)210		(11)257		(11)259½		(11)232		(11)239
Page 1	**06 of Tariff. [51]Change:**																
4135	Afton.....Wis.		(11)279		(11)249		(11)249		(11)249		(11)299		(11)301½		(11)259		(11)266

	CA&E								
Page 120 of Tariff. ⓜ Change:									
85	Geneva Jct.....Ill.	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)
	CB&Q								
Page 120 of Tariff. ⓜ Change:									
625	Rochelle.....Ill.	(11)+205							
715	Rockford.....Ill.	225							
775	Rock Falls.....Ill.	(11)+205							
780	Sterling.....Ill.								

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

TO		Rates From Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups															
		1 Harrisburg		2 Hillsboro		3 Terre Haute		4 Danville		5 Evansville		6 ES&N		7 Clay City		8 Petersburg	
Index No.	STATION	L	F	L	F	L	F	L	F	L	F	L	F	L	F	L	F
	CB&Q—(Con.)																
Page 121 of Tariff. ✉Change:		—(Con.)															
1565	Barstow.....Ill.																
1570	Cleveland.....Ill.																
1580	Briar Bluff.....Ill.																
1585	Warner.....Ill.																
1590	Orion.....Ill.	205															
1595	Lynn.....Ill.																
1600	Ophiem.....Ill.																
1605	Henderson.....Ill.																
1610	Rio.....Ill.																
Page 126 of Tariff. ✉Change:																	
4875	Cameron.....Mo.	319		③279													
4880	Cameron Jct.....Mo.																
4925	Keystone.....Mo.	319		③279													
4930	Turney.....Mo.																
4935	Lathrop.....Mo.																
4940	Holt.....Mo.	330		③290													
4945	Kearney.....Mo.																
4950	Chandler.....Mo.																
4955	Liberty.....Mo.																
Page 128 of Tariff, as amended by page 3 of Sup. 52. Change:																	
6555	Palmyra.....Neb.																
6560	Bennett.....Neb.	395		365	329												
6565	Cheneya.....Neb.																
6570	Collegeview.....Neb.																
Pages 131 to 133 of Tariff. Change:																	
7815	Woodlawn.....Neb.	♣395	♣359	♣365	♣329												
7886	Burkett.....Neb.	♣455	♣455	♣420	♣420												
7890	Abbott.....Neb.	♣455	♣455	♣420	♣420												
9390	Huntsman.....Neb.	♣662	♣662	♣627	♣627												
	CGW																
Page 134 of Tariff. ✉Change:																	
50	St. Charles.....Ill.																
60	Wasco.....Ill.																
65	Lily Lake.....Ill.	205		175		189		185						194		201	
70	Virgil.....Ill.																
75	Richardson.....Ill.																
80	Sycamore.....Ill.	205		175		189		185						194		201	
82	DeKalb.....Ill.																
84	Five Points.....Ill.	215		185		189		185						194		201	
85	Wilkinson.....Ill.	215		185		195		185						200		207	

90	Clare.....Ill.																		
95	Esmond.....Ill.																		
100	Lindenwood.....Ill.																		
105	Holcomb.....Ill.																		
110	Stillman Valley.....Ill.		220		190		207		190						212		219		
115	Byron.....Ill.																		
120	Myrtle.....Ill.																		
125	Egan.....Ill.																		
130	German Valley.....Ill.																		
135	South Freeport.....Ill.																		
Page 136 of Tariff. ▣Change:																			
805	Rosemont (Gopher Ordnance Works) (Formerly Coates).....Minn.	390	371	360	341	360	341	360	341						370	351	377	358	

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

Index No.	TO STATION	Rates From Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups													
		1 Harrisburg		2 Hillsboro		3 Terre Haute		4 Danville		5 Evansville		6 ES&N		7 Clay City		8 Petersburg	
		L	F	L	F	L	F	L	F	L	F	L	F	L	F	L	F
	CMStP&P																
Page 140 of Tariff. (54) Change:																	
565	Davis Jct.....Ill.																
570	Stillman Valley.....Ill.	220		190		200		190		230		232½		205		212	
575	Byron.....Ill.																
Page 140 of Tariff, as amended by page 9 of Sup. 42. (54) Change:																	
580	Leaf River.....Ill.	220		190		200		190		230		232½		205		212	
585	Adeline.....Ill.																
Pages 140 and 141 of Tariff. (54) Change:																	
590	Forreston.....Ill.	220		190		200		190		230		232½		205		212	
595	Harper.....Ill.																
605	Lanark.....Ill.	225		190		200		190		230		232½		205		212	
607	Fay.....Ill.																
696	Nickols.....Ill.																
697	Wilkinson.....Ill.	220		180		190		185		220		222½		195		202	
698	Bradt.....Ill.																
699	DeKalb.....Ill.	205		175		189		185		219		221½		189		201	
700	Chase.....Ill.																
701	Troxel.....Ill.	205		175		184		180		214		216½		189		196	
702	Duffin.....Ill.																
720	Camp Grant.....Ill.	225		195		212		195		242		244½		217		(67)237 (68)224	
725	Holcomb.....Ill.																
730	Kings.....Ill.	220		190		207		190		237		239½		212		219	
735	Flag Center.....Ill.																
740	Rochelle.....Ill.	205		175		189		185		232		234½		199		206	
745	Steward Junction.....Ill.																
750	Scarboro.....Ill.																
755	Roxbury.....Ill.	205		175		185		185		232		234½		199		202	
760	Welland.....Ill.																
Page 142 of Tariff. (22) Change:																	
1005	Clinton Jct.....Wis.	(117)279		(117)249		(117)249		(117)249		(117)299		(117)301½		(117)259		(117)266	
1010	Porters.....Wis.																
1015	Morgan's Farm.....Wis.															(117)266	
Page 142 of Tariff. (54) Change:																	
1020	Beloit.....Wis.	(117)240		(117)210		(117)227		(117)210		(117)257		(117)259½		(117)232		(117)239	
1050	Rockton.....Ill.																
1065	Roscoe Siding.....Ill.	240		210		217		210		247		249½		222		(67)239 (68)229	
1070	Latham Park.....Ill.																
1085	Rockford.....Ill.	225		195		212		195		242		244½		217		(67)237 (68)224	

									(a)224
1100 1105 1110 1115 1120	Shirland.....Ill. Durand.....Ill. Davis.....Ill. Rock City.....Ill. Dakota.....Ill.	240	210	217	210	247	249½	222	(a)239 (a)229
1125	Freeport.....Ill.	225	195	212	195	242	244½	217	224
1130 1135	Florence.....Ill. Shannon.....Ill.	225	195	212	195	242	244½	217	224
Page 142 of Tariff. [a] **Change**									
1235	Milton Jct.....Wis.	(11)283	(11)253	(11)253	(11)253	(11)303	(11)305½	(11)263	(11)270
Page 143 of Tariff. [88] **Change:**									
1505	Janesville.....Wis.	(11)279	(11)249	(11)249	(11)249	(11)299	(11)301½	(11)259	(11)266

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

Index No.	TO STATION	Rates From Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups: 1 Harrisburg L	1 Harrisburg F	2 Hillsboro L	2 Hillsboro F	3 Terre Haute L	3 Terre Haute F	4 Danville L	4 Danville F	5 Evansville L	5 Evansville F	6 ES&N L	6 ES&N F	7 Clay City L	7 Clay City F	8 Petersburg L	8 Petersburg F
	CMStP&P																
Page 1	**47 of Tariff, as amended**	**by pa**	**ge 9 of**	**Su**	**p. 42.**	**(46A)**	**Chan**	**ge:**									
4490	Dubuque.....Iowa	289	(13) 245 (N1) 261	254	(13) 210 (N1) 226	259	(13) 215 (N1) 231	259	(13) 215 (N1) 231					269	(13) 255 (N1) 241	276	(13) 232 (N1) 248
Page 1	**48 of Tariff. (48)Change:**																
4910	Fordson.....Minn.		(F12) (24)(24)		(F12) (24)(24)		(F12) (24)(24)		(F12) (24)(24)						(F12) (24)(24)		(F12) (24)(24)
4915	Merriam Park.....Minn.	390	331 (28)371	360	301 (28)341	360	301 (28)341	360	301 (28)341					370	311 (28)351	377	318 (28)358
Page 1	**55 of Tariff. (48)Change:**																
7250	Minnehaha.....Minn.	390	(F12) (24)(24) 331 (28)371	360	(F12) (24)(24) 301 (28)341	360	(F12) (24)(24) 301 (28)341	360	(F12) (24)(24) 301 (28)341					370	(F12) (24)(24) 311 (28)351	377	(F12) (24)(24) 318 (28)358
Page 1	**60 of Tariff, as amended**	**by page 3 of**	**Sup. 45.**			**(52)Change:**											
9493	Dana.....Ind.	183		169				100									
	IC																
Page 2	**07 of Tariff. (24)Change:**																
3025	Hart.....Ill.																
3030	Colvin Park.....Ill.																
3035	Irene.....Ill.	225		185		202		195						207		214	
3040	Perryville.....Ill.																
Page 2	**07 of Tariff, as amended**	**by page 12**		**of Sup. 42.**		**(24)Change**											
3042	Rockford.....Ill.	225		195		212		195						217		224	
Page 2	**07 of Tariff. (24)Change:**																
3050	Alworth.....Ill.																
3055	Seward.....Ill.	225		195		212		195						217		224	
3060	Evarts.....Ill.																
Page 2	**07 of Tariff, as amended**	**by page 12**		**of Sup. 42.**		**(24)Change.**											
3065	Freeport.....Ill.	225		195		212		195						217		224	
Page 2	**07 of Tariff. (24)Change.**																
3150	Baileyville.....Ill.	225		195		212		212						217		224	
3155	Forreston.....Ill.																
3160	Haldane.....Ill.	220		190		207		207						212		219	
3165	Polo.....Ill.																
3170	Woosung.....Ill.																
3175	North Dixon.....Ill.	205		175		189		189						199		206	
3180	Dixon.....Ill.	205		175		189		189						199		206	
3185	Eldena.....Ill.	205		175		189								199		206	
3190	Amboy.....Ill.																
3515	Eleroy.....Ill.	238		†208 *203		212		†208 *203						218		225	

	NYC(W)								
Page 247 of Tariff.	**Change.**								
6095	Middlebury.....Ind.								
6100	Shipshewana.....Ind.	282	252	.....	242	.....	.....	.....	.....
6105	Seyberta.....Ind.								
	NYC(M)								
Page 250 of Tariff.	**Change.**								
11270	Willow Run (formerly Wiard).....Mich.	320	292	285	282	320	322½	295	302
Page 252 of Tariff.	**Change.**								
12590	Kawkawlin.....Mich.	(11¢)	(11¢)	(11¢)	(11¢)	(11¢)	(11¢)	(11¢)	(11¢)

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

TO		Rates From Stations and Mines Shown on Pages 5 and 6 of Tariff Taking Groups:															
		1 Harrisburg		2 Hillsboro		3 Terre Haute		4 Danville		5 Evansville		6 ES&N		7 Clay City		8 Petersburg	
Index No.	STATION	L	F	L	F	L	F	L	F	L	F	L	F	L	F	L	F
	NYC(M)																
Page 2	53 of Tariff. ⊞Change.																
14855	Terre Haute.....Ind.																
14865	St. Mary of the Woods.....Ind.		174		169				100								
14870	Sandford.....Ind.																
14875	Vermillion.....Ill.		156		145		⑤ (1)90		100		174				⑤ (1)97		⑤ (1)149
	StLSW																
Page 2	89 of Tariff. δAdd.																
762	Stringer.....Ark.		245														

ROUTING (Origin Groups and destination Index Numbers are those used with the rates).

TO Station Index Numbers	ROUTE NUMBERS FROM ORIGIN GROUPS						
	Group 1 Harrisburg	Group 2 Hillsboro	Group 3 Terre Haute	Group 4 Danville	Groups 5, δ6 Evansville	Group 7 Clay City	Group 8 Petersburg
B&O							
Page 327 of Tariff. ⊞Add:							
13785	5						
MN&S							
Page 337 of Tariff. Change:							
215	2 to 5, 8, δ9	2 to 5, δ9	2 to 5, 8, δ9	2 to 5, 8, δ9		2 to 5, 8, δ9	2 to 5, 8, δ9
StLSW							
Page 343 of Tariff. Change:							
20 to 760	1, 2, 3						
762	δ4						
765 to 1555	1, 2, 3						

EXPLANATION OF ROUTE NUMBERS.

Route numbers explained under the various delivering lines correspond with the same delivering line named in connection with the rate.

Route Nos.	ROUTE VIA
Page 357	StLSW
4	of Tariff. Add: NYC(C)—Karnak, Ill., C&EI—Chaffee, Mo., StLSF—Blytheville, Ark., and StLSW.

For Explanation of Abbreviations and Notes, see pages 71 to 74 of Tariff; Column Letters, see Note 1 of Tariff; Reference Marks, see page 2 of this Supplement.

Subject to Tariff of Increased Rates and Charges No. X-148, Agent L. E. Kipp's I. C. C. No. A-3386, Ill. C. C. No. 311, I. R. C. No. A-169, M. R. C. No. 295, supplements thereto or successive issues thereof.

(3400) This Supplement is subject to the provisions of Supplement No. 2 (Service Order 68).

Supplement No. 10 to
M. R. C. No. 187
Supplements Nos. ①2, 3, ②4, 8, 9 and 10 contain all changes from the original tariff effective on the date hereof.

Supplement No. 10 to
I. R. C. No. E-129
Supplements Nos. ①2, 3, ②4, 8, 9 and 10 contain all changes from the original tariff effective on the date hereof.

Supplement No. 11 to
Ill. C. C. No. E-316
Supplements Nos. ①2, 3, ③4, 8, 9, ③10 and 11 contain all changes from the original tariff effective on the date hereof.

Supplement No. 10 to
I. C. C. No. E-1802
Supplements Nos. ①2, 3, ②4, 8, 9 and 10 contain all changes from the original tariff effective on the date hereof.

Illinois Central Railroad Company

—IN CONNECTION WITH—

PARTICIPATING CARRIERS AS SHOWN IN TARIFF AND EFFECTIVE SUPPLEMENTS

Stamp here date received

SUPPLEMENT No. 11 TO
I. C. R. R. COAL TARIFF No. 3100-H

Supplements Nos. ①2, 3, ②4, 8, 9, ③10 and 11 contain all changes from the original tariff effective on the date hereof.

See page 2 for Individual Lines' Tariff Numbers

SUPPLEMENT TO

FREIGHT TARIFF

—OF—

LOCAL, JOINT AND PROPORTIONAL RATES

—APPLYING ON—

Anthracite Coal, Bituminous Coal, Carbonized Bituminous Coal, and Bituminous Coal Briquettes, Carloads and Less Carloads

FROM	TO
Mines and Stations in States of ALABAMA ILLINOIS INDIANA IOWA KENTUCKY WISCONSIN Also ST. LOUIS, MO. Shown on pages 6 to 9, inclusive, of tariff, as amended.	Stations in States of COLORADO ILLINOIS INDIANA IOWA KANSAS MICHIGAN MINNESOTA MISSOURI MONTANA NEBRASKA NORTH DAKOTA SOUTH DAKOTA WISCONSIN WYOMING On ILLINOIS CENTRAL R. R. AND CONNECTIONS

ALSO DISTANCE RATES

Between stations on Illinois Central R. R. in States of Illinois, Indiana, Iowa, Minnesota, South Dakota and Wisconsin, shown in Section No. 4, pages 383 to 391, inclusive, of tariff.

Governed by Classifications, Exceptions thereto and Rules Circular referred to in Rules 1 and 10 of tariff.

ISSUED JUNE 30, 1942 — **EFFECTIVE AUGUST 2, 1942**

①Special Supplement (Service Order No. 68).
②Special Supplement of Increased Rates (Ex Parte 148)
③Illinois intrastate supplement issued under Illinois Commerce Commission Docket 30838 of June 11, 1942. (Suspension of minimum weights in box or stock cars.)

Issued by
W. L. REEVES,
General Freight Agent,
135 East Eleventh Place,
CHICAGO, ILL.

J. L. SHEPPARD,
Freight Traffic Manager,
CHICAGO, ILL.

R. A. TROVILLION,
Assistant Freight Traffic Manager,
CHICAGO, ILL.

N. L. RICHMOND,
Coal Traffic Manager,
CHICAGO, ILL.

(496)

Amends tariff as follows: Pages 109 to 371, inclusive, and page 2 of Supplement No. 9.
The rates shown below cancel rates from and to the same points as shown in tariff, as amended.

SECTION 1

BITUMINOUS COAL, CARLOADS

Rates in Cents per Ton of 2,000 Pounds

When rates are published in this section on the commodity transported from point of origin to destination, rates named in this section will apply regardless of rates between the same points via the same route published in other sections. (Not applicable on Intrastate traffic.)

Index No.	TO ICRR	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended in following groups:														
		1 (Northern Illinois)			2	3	4	5 (Du Quoin)		6	7	8	9	10 (Chicago) (See Rule 40 of tariff)	
		La Salle Oglesby Minonk	Peoria	Pekin	(Springfield)	(Centralia)	(Belleville)	Bois Tamaros	All Other Stations	(Southern Illinois)	(Linton)	(Evansville)	(Western Kentucky)	Kankakee	All Other Stations
915	Addison Ill.	♦①140			180	190	210	210	210	220	195	220	240	155	②63
917	South Addison Ill.				+175	+175	+195	+195	+195	+205					128
															③63
919	Cloverdale Ill.	♦①140			180	190	210	210	210	220	190	220	255	155	130 63 133
921	Schicks Crossing Ill.	♦①140			180	190	210	210	210	220	190	220	255	155	63 135
923	Munger Ill.	♦①140			180	190	210	210	210	220	190	220	255	155	63 135
927	Coleman Ill.														
929	Youngsdale Ill.	♦①140			180	210	210	210	220	220	190	220	255	155	63 135
931	Bowes Ill.														
933	Plato Center Ill.														
935	Burlington Ill.	♦①140			180	210	210	210	220	220	190	220	255	158	63 135
937	Charter Grove Ill.	♦①140			180	210	210	210	220	220	190	220	255	160	63 135
939	Genoa Ill.	♦①140			180	210	210	210	220	220	190	220	255	174	63 135
941	Hart Ill.	♦①140			♦①185	♦①215	♦①215	♦①215	♦①225	♦①225	♦①195	♦①232	♦①260	174	63 135
943	Colvin Park Ill.	♦①140			♦①185	♦①215	♦①215	♦①215	♦①225	♦①225	♦①195	♦①232	♦①260	179	63 135
945	Irene Ill.	♦①140			♦①185	♦①215	♦①215	♦①215	♦①225	♦①225	♦①195	♦①232	♦①260	180	63 135
947	Perryville Ill.	♦①140			♦①185	♦①215	♦①215	♦①215	♦①225	♦①225	♦①195	♦①232	♦①260	181	63 135
949	Rockford Ill.	♦①125	♦①165	♦①165	♦①195	♦①215	♦①215	♦①215	♦①220	♦①225	♦①205	♦①242	♦①260	183	§④ 135
951	Alworth Ill.														
953	Seward Ill.														
955	Evarts Ill.	♦①125	♦①165	♦①165	♦①195	♦①215	♦①215	♦①215	♦①220	♦①225	♦①205	♦①242	♦①260	183	183
957	Freeport Ill.														
959	Baileyville Ill.														
961	Forreston Ill.														
963	Haldane Ill.	♦①115	♦①160	♦①160	♦①190	♦①210	♦①210	♦①210	♦①215	♦①220	♦①200	♦①230	♦①255	183	183
965	Polo Ill.														
967	Woosung Ill.														
969	North Dixon Ill.	②110	+♦137	♦①	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①195	♦①225	♦①240	186	186
971	Dixon Ill.		I♦① 137	155											
973	Eldena Ill.	②110	♦①137	♦①155	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①195	♦①225	♦①240	186	186
975	Amboy Ill.														

§Issued in compliance with order of the Illinois Commerce Commission in Docket 21012 dated June 28, 1932.
①Issued in conformity with order of the Interstate Commerce Commission in Docket No. 25419 dated March 3, 1942.
②Will not apply from Calumet Park, Ill. (IHBRR only).
③Applies from Calumet Park, Ill., only. (IHBRR)
④Rate of 117.5 cents applies on shipments arriving at Chicago, Ill., or other points in Group 10 (except Kankakee and Waukegan, Ill.) via lake and reshipped from docks. Not subject to Rule 40 of tariff. Published to meet natural gas pipe line competition. (I. C. C. 24579)
For explanation of other Reference Marks, see pages 90 and 91 of tariff, as amended.

Amends tariff as follows: pages 109 to 371, inclusive.

The rates shown below cancel rates from and to the same points as shown in tariff, as amended.

SECTION 1—Continued

BITUMINOUS COAL, CARLOADS
Rates in Cents per Ton of 2,000 Pounds

Index No.	TO ICRR —Continued	Application	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended, in following groups: 1 (Northern Illinois) La Salle Oglesby	1 (Northern Illinois) Minonk	1 (Northern Illinois) Peoria	1 (Northern Illinois) Pekin	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)	10 (Chicago) (See Rule 40)
1073	Eleroy.....Ill.	.....	163	163	.....	.....	203	223	223	228	233	213	♦①242	268	193

Index No.	TO C&NWRy	Application	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended, in following groups: 1 (Northern Illinois)	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	6-A (MPRR Stations)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)
	Route via☞		♦Chicago Ill. ***	Chicago, Ill.;—or via Matteson, Ill., EJ&E Ry. and West Chicago, Ill.								
5813	Geneva.....Ill. (See Note)'	.....	135	♦①189	♦①209	♦①209	♦①219	♦①219	♦①219	♦①194	♦①219	♦①254
			Route via—Peoria or South Pekin, Ill.									
		.....	.....	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	.....	.....	♦①240
	Route via☞		Chicago, Ill.	Peoria or South Pekin, Ill.								
5815	La Fox.....Ill.											
5817	Elburn.....Ill.	.....	♦①145	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
5819	Maple Park.....Ill.											
5821	Cortland.....Ill.											
	Route via☞		Dixon, Ill.	Peoria or South Pekin, Ill.								
5823	De Kalb.....Ill.											
5825	Malta.....Ill.	.....	♦①155	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
5827	Creston.....Ill.											
5829	Rochelle.....Ill.	.....	♦①115	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
5831	Flagg.....Ill.											
5833	Ashton.....Ill.	.....	♦①155	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
5835	Franklin Grove.....Ill.											
5837	Nachusa.....Ill.											

5823	De Kalb	Ill.											
5825	Malta	Ill.		♦①155	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
5827	Creston	Ill.											
5829	Rochelle	Ill.		♦***115	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
5831	Flagg	Ill.											
5833	Ashton	Ill.		♦①155	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
5835	Franklin Grove	Ill.											
5837	Nachusa	Ill.											
	Route via			**Peoria or South Pekin, Ill.**									
5838	Dixon	Ill.		♦①155	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
	Route via			**Dixon, Ill.**	**Peoria or South Pekin, Ill.**								
5839	Nelson	Ill.		♦①164	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
5841	Sterling (Rock Falls)	Ill.		♦①164	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①199	♦①232	♦①240
5843	Galt	Ill.	Ⓐ	♦①164	185	215	215	235	235	235	216	245	260
			Ⓑ	♦①164	188	215	215	235	235	235	212	245	260

Note.—Will not apply to the St. Charles School for Boys—$3.85 per car over rates to Geneva, Ill. See C&NWRy. I. C. C. No. 10940, G. F. D. No. 8408-S.

For explanation of Reference Marks, see pages 90 and 91 of tariff, as amended.

***♦Cancel route via Rockford, Ill.

①Issued in conformity with order of the Interstate Commerce Commission in Docket No. 25419 dated March 3, 1942.

1637

Amends tariff as follows: Pages 109 to 371, inclusive.

The rates shown below cancel rates from and to the same points as shown in tariff, as amended.

SECTION 1—Continued

BITUMINOUS COAL, CARLOADS

Rates in Cents per Ton of 2,000 Pounds

Index No.	TO C&NWRy —Continued	Application	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended, in following groups: 1 (Northern Illinois)	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	6-A (MPRR Stations)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)
	Route via☞		♦Chicago, Ill. ***	Peoria or South Pekin, Ill.								
5857	Wayne.....Ill.											
5859	South Elgin.....Ill.		135	180	210	210	220	220	220	195	220	255
5861	Elgin.....Ill.											
5863	Gilberts.....Ill.											
5865	Huntley.....Ill.											
5867	Union.....Ill.		135	♦①195	♦①215	♦①215	♦①220	♦①225	♦①220	202	227	♦①260
5869	Marengo.....Ill.											
5871	Garden Prairie.....Ill.											
5873	Belvidere.....Ill.		♦①140	♦①195	♦①215	♦①215	♦①220	♦①225	♦①220	♦①217	♦①242	♦①260
5875	Cherry Valley.....Ill.		♦140	♦①195	♦①215	♦①215	♦①220	♦①225	♦①220	♦①217	♦①242	♦①260
	Route via☞		Dixon, Ill.	Peoria or South Pekin, Ill.								
5877	Rockford.....Ill.		♦①(179) 125	♦①195	♦①215	♦①215	♦①220	♦①220	♦①220	♦①217	♦①242	♦①260
5879	Winnebago.....Ill.											
5881	Pecatonica.....Ill.		♦①140	♦①195	♦①215	♦①215	♦①220	♦①220	♦①220	♦①217	♦①242	♦①260
5883	Ridott.....Ill.											
5884	Freeport.....Ill.		♦①(179) 125	♦①195	♦①215	♦①215	♦①220	♦①220	♦①220	♦①217	♦①242	♦①260
	Route via☞		Dixon, Ill.	Matteson, Ill., EJ&ERy., and West Chicago, Ill.								
5885	St. Charles.....Ill.		♦①162	♦①189	♦①209	♦①209	♦①219	♦①219	♦①219	♦①194	♦①219	♦①254
				Route via—Peoria or South Pekin, Ill.								
				♦①175	♦①195	♦①195	♦①205	♦①205	♦①205			♦①240
	Route via☞		Rockford, Ill.	Peoria or South Pekin, Ill.								
5895	Dundee.....Ill.		+ 135 ♦① I 135	210	230	230	235	240	235	219	244	275
5897	Carpentersville.....Ill.		+ 135 ♦①	210	230	230	235	240	235	220	254	275
5899	Algonquin.....Ill.		I 135									
	Route via☞		Chicago, Ill.	Peoria or South Pekin, Ill.								
5919	Sycamore.....Ill.		♦①155	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①194	♦①219	♦①240
	Route via☞		Rockford, Ill.	Peoria or South Pekin, Ill.								

	Route via		Rockford, Ill.	Peoria or South Pekin, Ill.								
5985	Fox River Grove Ill.											
5987	Cary Ill.											
5989	Crystal Lake Ill.											
5991	Ridgefield Ill.	*	♦140	210	230,	230	235	240	235			
5993	Woodstock Ill.	I	140	210	230	230	235	240	235	220	254	275
5995	Hartland Ill.											
5997	Harvard Ill.											
5999	Lawrence Ill.											
6123	Chemung Ill.											
6125	Capron Ill.		*♦140	210	230	230	235	240	235	220	254	275
6127	Popular Grove Ill.		I 140									
6129	Caledonia Ill.											
6955	Roscoe Ill.		* ♦140	(23)210	(23)230	(23)230	(23)235	(23)240	(23)235	♦①232	♦①257	(23)275
			I(53)140									
6957	Beloit Wis.		(23)140	(23)210	(23)230	(23)230	(23)235	(24)240	(23)235	♦①232	(24)257	(23)275

①Issued in conformity with order of the Interstate Commerce Commission in Docket No. 25419 dated March 3, 1942.
***♦Cancel route via Rockford, Ill.

Amends tariff as follows: Pages 109 to 371, inclusive.
The rates shown below cancel rates from and to the same points as shown in tariff, as amended.

SECTION 1—Continued
BITUMINOUS COAL, CARLOADS
Rates in Cents per Ton of 2,000 Pounds

Index No.	TO CB&QRR	Application	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended in following groups: 3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	9 (Western Kentucky)
	Route via ☞		**Centralia, Ill.**				**Centralia or Peoria, Ill.**
9265	Denrock.....Ill.	.....	.....	.....	♦①240	♦①240	♦①240
	Route via ☞		**Chicago, Ill.**		**Centralia, Ill.**		**Centralia or Peoria, Ill.**
9267	Sugar Grove.....Ill.	.....	♦①240	♦①250	♦①240	♦①240	♦①240
	Route via ☞		**Centralia, Ill.** (except as noted)				**Centralia, or Peoria, Ill.**
9269	Big Rock.....Ill.	}					
9271	Hinckley.....Ill.						
9273	Waterman.....Ill.		.....	.....	♦①240	♦①240	♦①240
9275	Shabbona.....Ill.						
9277	Lee.....Ill.	}					
9279	Steward.....Ill.	}	.....	.....	♦①②215	♦①②215	♦①240
9281	Rochelle.....Ill.						
9283	Flag Center.....Ill.	.....	.....	.....	♦①②220	♦①②220	♦①255
9285	Chana.....Ill.	}					
9287	Honey Creek.....Ill.		.....	.....	♦①255	♦①255	♦①255
9289	Oregon.....Ill.						
9291	Stratford.....Ill.	}					
9292	Polo.....Ill.	.....	.....	.....	.....	.....	♦①255
	Route via ☞		**Centralia, Ill.**				**Centralia or Peoria, Ill.**
9303	Kings.....Ill.	}					
9305	Holcomb.....Ill.		.....	.....	♦①220	♦①220	♦①255
9307	Davis Jct.....Ill.						
9309	New Milford.....Ill.	.....	.....	.....	♦①225	♦①225	♦①260
9310	Rockford.....Ill.	}	.....	.....	♦①260	♦①260	♦①260
9311	Mt. Morris.....Ill.						
9323	Walton.....Ill.	}	.....	.....	♦①240	♦①240	♦①240
9325	Harmon.....Ill.						
9327	Stones.....Ill.						
9329	Rock Falls.....Ill.	}	.....	.....	♦①240	♦①240	♦①240
9331	Sterling.....Ill.						
9333	Sands.....Ill.	}	.....	.....	♦①240	♦①240	♦①240
9335	Lyndon.....Ill.						

	Route via		East St. Louis, Ill.	Centralia, Ill.		Centralia or Peoria, Ill.
9393	Alpha.....Ill.		♦①199	♦①205	♦①205	♦①240
9557	Erie.....Ill.					
9559	Hillsdale.....Ill.			♦①222	♦①222	♦①240
9561	Joslin.....Ill.					
9565	Barstow.....Ill.		♦①199	♦①205	♦①205	♦①240
9579	Cleveland.....Ill.					
9581	Briar Bluff.....Ill.					
9583	Warner.....Ill.					
9585	Orion.....Ill.		♦①199	♦①205	♦①205	♦①240
9587	Lynn.....Ill.					
9589	Ophiem.....Ill.					
9591	Rio.....Ill.					
9593	Henderson.....Ill.					

①Issued in conformity with order of the Interstate Commerce Commission in Docket No. 25419 dated March 3, 1942.
②Applies via ICRR, Mendota, Ill., CMStP&PRR, Rochelle, Ill. and CB&QRR.
For explanation of other Reference Marks, see pages 90 and 91 of tariff, as amended.

Amends tariff as follows: Pages 109 to 371 inclusive.

The rates shown below cancel rates from and to the same points as shown in tariff, as amended.

SECTION 1—Concluded

BITUMINOUS COAL, CARLOADS

Rates in Cents per Ton of 2,000 Pounds

Index No.	TO CMStP&PRR —Concluded	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff as amended, in following groups: 1 (Northern Illinois)	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	6-A (MPRR Stations)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)
	Route via ☞	**Mendota, Ill.**									
14295	Holcomb, Ill.	♦①115	♦①190	♦①210	♦①210	♦①215	♦①220	♦①215	♦①212	♦①237	♦①255
14296	Kings, Ill.										
14297	Flag Center, Ill.										
14298	Rochelle, Ill.	♦①115	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①199	♦①232	♦①240
14299	Stewart Junction, Ill.										
14300	Scarboro, Ill.	+♦①110 I110	♦①175	♦①195	♦①195	♦①205	♦①205	♦①205	♦①199	♦①232	♦①240
14301	Roxbury, Ill.										
14302	Welland, Ill.										
14303	Peterstown, Ill.	+♦110 I110	170	190	190	200	200	200	190	225	△235
14369	②Beloit, Wis.	140	210	230	230	235	240	235	♦①232	257	275
14373	②Rockton, Ill.	+♦140 I140	♦①210	♦①230	♦①230	♦①235	♦①240	♦①235	♦①222	♦①247	♦①275
14375	②Roscoe Siding, Ill.										
14377	②Latham Park, Ill.										
	Route via ☞	**Mendota, Ill.**									
14383	Shirland, Ill.										
14385	Durand, Ill.	+157 I162	♦①210	♦①230	♦①230	♦①230	♦①240	♦①230	♦①222	♦①247	♦①275
14387	Davis, Ill.										
14389	Rock City, Ill.										
14391	Dakota, Ill.										
14393	Freeport, Ill.	♦①㉙ ㉙125	♦①㉙ 195	♦①㉙215	♦①㉙215	♦①㉙220	♦①㉙225	♦①㉙220	♦①217	♦①242	♦①㉙260
14395	Florence, Ill.	♦①165	♦①195	♦①215	♦①215	♦①220	♦①225	♦①220	♦①217	♦①242	♦①260
14397	Shannon, Ill.										

Index No.	TO EJ&ERy	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended, in following groups: 1 (Northern Illinois)	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	6-A (MPRR Stations)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)	11 (East St. Louis)
	Route via ☞	**Matteson, Ill.**										
22619	Spaulding, Ill.											
22621	Munger, Ill.	♦①140	180	190	210	210	220	210	195	220	255	210
22623	Wayne, Ill.											
22625	Ingalton, Ill.	♦①140	175	175	195	195	205	195	185	220	240	195
22627	West Chicago, Ill.	♦①140	175	175	195	195	205	195	185	214	240	195
22629	Warrenhurst, Ill.											

①Issued in conformity with order of the Interstate Commerce Commission in Docket No. 25419 dated March 3, 1942.
②Applies only via Davis Jct., Ill.
For explanation of other Reference Marks, see pages 90 and 91 of tariff, as amended.

Amends tariff as follows: pages 109 to 371, inclusive.

The rates shown below cancel rates from and to the same points as shown in tariff, as amended.

SECTION 1—Continued

BITUMINOUS COAL, CARLOADS
Rates in Cents per Ton of 2,000 Pounds

Index No.	TO CGWRy	Application	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff as amended in following groups: 1 (Northern Illinois)	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	6-A (MPRR Stations)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)
	Route via		③	⑤Chicago, Ill. or Matteson, Ill., EJ&ERy and Ingalton, Ill.								
12713	St. Charles.....Ill.		♦①140	④㉘①175	♦①㉘195	♦①㉘195	♦①㉘205	♦①㉘205	♦①㉘205	♦①194	♦①219	♦①㉘240
12717	Wasco.....Ill.											
12719	Lily Lake.....Ill.		♦①140	④175	195	195	205	205	205	♦①194	♦①219	240
12721	Virgil.....Ill.											
12723	Richardson.....Ill.											
	Route via		②	⑧	⑤Chicago, Ill. or Matteson, Ill., EJ&ERy and Ingalton, Ill.							
12727	Sycamore.....Ill.		♦①140	♦① ④㉘175	♦①㉘195	♦①㉘195	♦①㉘205	♦①㉘205	♦①㉘205	♦①194	♦①219	♦①㉘240
12729	De Kalb.....Ill.											
12731	Five Points.....Ill.											
12733	Wilkinson.....Ill.		♦①140	♦①④185	♦①205	♦①205	♦①210	♦①215	♦①210	♦①194	♦①219	♦①250
12735	Clare.....Ill.		♦①140	♦①④190	♦①210	♦①210	♦①215	♦①220	♦①215	♦①194	♦①224	♦①255
	Route via		Dunbar (South Freeport), Ill.									
12737	Esmond.....Ill.											
12739	Lindenwood.....Ill.											
12741	Holcomb.....Ill.		♦①140	♦①④190	♦①210	♦①210	♦①215	♦①220	♦①215	♦①212	♦①237	♦①255
12743	Stillman Valley.Ill.											
12745	Byron.....Ill.											
12747	Myrtle.....Ill.											
12749	Egan.....Ill.		♦①160	♦①④190	♦①210	♦①210	♦①215	♦①220	♦①215	♦①212	♦①237	♦①255
12751	German Valley..Ill.											
	CMStP&PRR Route via		Chicago, Ill.									
14181	Bensenville.....Ill.											
14183	Wooddale.....Ill.											
14185	Itasca.....Ill.											
14187	Roselle.....Ill.		♦①140	180	190	210	210	220	210	195	220	255
14189	Ontarioville.....Ill.											
14191	Bartlett.....Ill.											
14193	Spaulding.....Ill.											
14195	Hammond's.....Ill.		♦①140	180	210	210	215	220	215	195	220	255
	Route via		Mendota, Ill.							♦Chicago, Ill.	Mendota, Ill.	

	Route via☞		Mendota, Ill.							♦Chicago, Ill.	Mendota, Ill.	
14197	Elgin	Ill.	♦①140	180	210	210	230	230	230	195	220	255
14199	♦Almora	Ill.										
14201	McQueen	Ill.										
14203	Pingree Grove	Ill.										
14205	Starks	Ill.	♦①140	180	210	210	230	230	230	195	220	255
14207	Hampshire	Ill.										
14209	New Lebanon	Ill.										
14211	Genoa	Ill.	♦①140	180	210	210	230	230	230	195	220	255
14213	Kingston	Ill.										

***♦Route via Mendota, Ill., cancelled.
①Issued in conformity with order of the Interstate Commerce Commission in Docket No. 25419 dated March 3, 1942.
③Applies via Dunbar (South Freeport), Ill.
②Applies via Matteson, Ill., EJ&ERy and Ingalton, Ill., or via Dunbar (South Freeport), Ill.
④Will not apply from Colliery, Ill.
⑤Applies on Illinois Intrastate traffic only. Via this route, rates are not applicable at intermediate points under authority of Order No. 1139 of Illinois Railroad and Warehouse Commission of June 26, 1931, as amended, in conjunction with General Order No. 125 and Fortieth Section Order No. 29 of the Illinois Commerce Commission.
For explanation of other Reference Marks, see pages 90 and 91 of tariff, as amended.

Amends tariff as follows: Pages 109 to 371 inclusive.
The rates shown below cancel rates from and to the same points as shown in tariff, as amended.

SECTION 1—Continued
BITUMINOUS COAL, CARLOADS
Rates in Cents per Ton of 2,000 Pounds

Index No.	TO CMStP&PRR —Continued	Application	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended in following groups: 1 (Northern Illinois)	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	6-A (MPRR Stations)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)
			Route via—Mendota, Ill.							♦Chicago, Ill. ***	Mendota, Ill.	
14215	Kirkland.....Ill.	.....	♦①140	180	210	210	220	220	220	195	220	255
			Route via—Matteson, Ill., EJ&ERy., and Aurora, Ill.									
		.....	.....	180	210	210	③220	220	.....	.....	.....	255
	Route via☞		Mendota, Ill.							♦Chicago, Ill. ***	Mendota, Ill.	
14217	Fairdale.....Ill.	.....	♦①140	180	210	210	220	220	220	195	220	255
14219	Monroe Center.....Ill.											
	Route via☞		Mendota, Ill.									
14221	Davis Junction.....Ill.	.....	♦①115	♦①190	♦①210	♦①210	♦①215	♦①220	♦①215	♦①205	♦①230	♦①255
14223	Stillman Valley.....Ill.	.....	♦①140	♦①190	♦①210	♦①210	♦①215	♦①220	♦①215	♦①205	♦①230	♦①255
14225	Byron.....Ill.											
14227	Leaf River.....Ill.	.....	♦①140	♦①190	♦①210	♦①210	♦①215	♦①220	♦①215	♦①205	♦①230	♦①255
14229	Adeline.....Ill.											
14231	Forreston.....Ill.	.....	*♦①178 120 I♦①140	♦①190	♦①210	♦①210	♦①215	♦①220	♦①215	♦①205	♦①230	♦①255
	Route via☞		Mendota, Ill., or Forreston, Ill. (DT-99-3290)									
14233	Harper.....Ill.	.....	*㉘150 I㉘155	♦①190	㉘215	㉘215	㉘225	㉘225	㉘225	♦①205	♦①230	㉘260
14235	Lanark.....Ill.	.....	*157 I162	♦①190	215	215	225	225	225	♦①205	♦①230	260
14237	Fay.....Ill.											

Index No.	TO	Application	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended in following groups: 1 (Northern Illinois)	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin) Bois Tamaroa	5 (Du Quoin) All Other Stations	6 (Southern Illinois)	6-A (MPRR Stations)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)
	Route via☞		Matteson, Ill., EJ&ERy and, Spaulding, Ill.								Matteson, Ill., EJ&ERy and Aurora, Ill.		
		.....	♦①㉘115	♦①㉘195	♦①㉘215	♦①㉘215	♦①㉘220	♦①㉘220	♦①㉘225	⑦	.....	.....	♦①㉘260

		.....	♦①28 115	♦①28 195	♦①28 215	♦①28 215	♦①28 220	♦①28 220	♦①28 235	②	.....	.....	♦①28 260
14274	Rockford.....Ill.												
14275	Camp Grant....Ill.		Route via—Mendota, Ill.										
		.....	♦①28 125	♦①195	♦①215	♦①215	♦①220	♦①220	♦①235	♦①220	♦①217	♦①242	♦①260
	Route via☞		Matteson, Ill., EJ&ERy, and Aurora, Ill.										
14280	De Kalb.....Ill.	.....	.....	♦①28 175	♦①28 195	♦①28 195	♦①28 195	♦①28 205	♦①28 205	③	.....	.....	♦①28 240
14281	Chase.....Ill.												
14282	Troxel.....Ill.	.....	.....	♦①175	♦①195	♦①195	♦①195	♦①205	♦①205	②	.....	.....	♦①240
14283	Duffin.....Ill.												

①Issued in conformity with order of the Interstate Commerce Commission in Docket No. 25419 dated March 3, 1942.
②For rates see Missouri Pacific RR Freight Tariff No. 896-Q, I. C. C. No. A-9487, Ill. C. C. No. 397, I. C. R. R. Coal Tariff No. 3020-H.
③Rate from Bois and Tamaroa, Ill., 210 cents.
***♦Route via Mendota, Ill., cancelled.
For explanation of other Reference Marks, see pages 90 and 91 of tariff, as amended.

Subject to Tariff of Increased Rates and Charges No. X-148, Agent L. E. Kipp's I. C. C. No. A-3386, Ill. C. C. No. 311, I. R. C. No. A-169, M. R. C. No. 295, supplements thereto or successive issues thereof.
(3400) This Supplement is subject to the provisions of Supplement No. 2 (Service Order 68).

APPLIES ONLY ON INTERSTATE TRAFFIC

Supplement No. 12 to
I. C. C. No. E-1802

Supplements Nos. ①2, 3, ②4, 8, 10, 11 and 12 contain all changes from the original tariff effective on the date hereof.

Illinois Central Railroad Company

—IN CONNECTION WITH—

PARTICIPATING CARRIERS AS SHOWN IN TARIFF AND EFFECTIVE SUPPLEMENTS

Stamp here date received

SUPPLEMENT No. 13 TO
I. C. R. R. COAL TARIFF No. 3100-H

Supplements Nos. ①2, 3, ②4 8, ③10, 11, 12 and 13 contain all changes from the original tariff effective on the date hereof.

See page 2 for Individual Lines' Tariff Numbers

SUPPLEMENT TO
FREIGHT TARIFF

—OF—

LOCAL, JOINT AND PROPORTIONAL RATES

—APPLYING ON—

Anthracite Coal, Bituminous Coal, Carbonized Bituminous Coal, and Bituminous Coal Briquettes, Carloads and Less Carloads

FROM	TO
Mines and Stations in States of ALABAMA ILLINOIS INDIANA IOWA KENTUCKY WISCONSIN Also ST. LOUIS, MO. Shown on pages 6 to 9, inclusive, of tariff, as amended.	Stations in States of COLORADO ILLINOIS INDIANA IOWA KANSAS MICHIGAN MINNESOTA MISSOURI MONTANA NEBRASKA NORTH DAKOTA SOUTH DAKOTA WISCONSIN WYOMING On ILLINOIS CENTRAL R. R. AND CONNECTIONS

ALSO DISTANCE RATES

Between stations on Illinois Central R. R. in States of Illinois, Indiana, Iowa, Minnesota, South Dakota and Wisconsin, shown in Section No. 4, pages 383 to 391, inclusive, of tariff.

Governed by Classifications, Exceptions thereto and Rules Circular referred to in Rules 1 and 10 of tariff.

ISSUED JULY 24, 1942 **EFFECTIVE SEPTEMBER 3, 1942**
(Except as otherwise provided herein)

Departure from the terms of Rule 9(e) of Tariff Circular No. 20 is authorized under permission of the Interstate Commerce Commission No. 7920 of March 17, 1942.

①Special Supplement (Service Order No. 68).
②Special Supplement of Increased Rates (Ex Parte 148)
③Illinois intrastate supplement issued under Illinois Commerce Commission Docket 30838 of June 11, 1942. (Suspension of minimum weights in box or stock cars.)

Issued by
W. L. REEVES,
General Freight Agent,
135 East Eleventh Place,
CHICAGO, ILL.

J. L. SHEPPARD,
Freight Traffic Manager,
CHICAGO, ILL.

R. A. TROVILLION,
Assistant Freight Traffic Manager,
CHICAGO, ILL.

N. L. RICHMOND,
Coal Traffic Manager,
CHICAGO, ILL.

(590)

1643

Amends tariff as follows: Pages 109 to 371, inclusive, and pages 4, 7 and 8 of Supplement No. 10.

The rates shown below cancel rates from and to the same points as shown in tariff, as amended.

SECTION 1

BITUMINOUS COAL, CARLOADS

Rates in Cents per Ton of 2,000 Pounds

When rates are published in this section on the commodity transported from point of origin to destination, rates named in this section will apply regardless of rates between the same points via the same route published in other sections. (Not applicable on Intrastate traffic.)

Index No.	TO C&NWRy	Application	FROM Mines and Stations shown on pages 6 to 9, incl., of tariff, as amended, in following groups: 1 (Northern Illinois)	2 (Springfield)	3 (Centralia)	4 (Belleville)	5 (Du Quoin)	6 (Southern Illinois)	6-A (MPRR Stations)	7 (Linton)	8 (Evansville)	9 (Western Kentucky)
	Route via ☞		**Dixon, Ill.**	**Peoria or South Pekin, Ill.**								
5877	Rockford.....Ill.		(1)(179) 125	(1)195	(1)215	(1)215	(1)220	♦(1)(3)225	(1)220	(1)217	(1)242	(1)260
5879	Winnebago.....Ill.											
5881	Pecatonica.....Ill.		(1)140	(1)195	(1)215	(1)215	(1)220	♦(1)(3)225	(1)220	(1)217	(1)242	(1)260
5883	Ridott.....Ill.											
5884	Freeport.....Ill.		(1)(179) 125	(1)195	(1)215	(1)215	(1)220	♦(1)(3)225	(1)220	(1)217	(1)242	(1)260
	CMStP&PRR Route via ☞		**Matteson, Ill., EJ&ERy and Spaulding, Ill.**							**Matteson, Ill., EJ&E Ry and Aurora, Ill.**		
14274	Rockford.....Ill.		♦(1)(3)(29) 125	(1)(29) 195	(1)(29) 215	(1)(29) 215	(1)(29) 220	(1)(29) 225	(3)	.....	.....	(1)(29) 260
14275	Camp Grant.....Ill.		**Route via—Mendota, Ill.**									
			(1)(29) 125	(1)195	(1)215	(1)215	(1)220	(1)225	(1)220	(1)217	(1)242	(1)260
	Route via ☞		**Mendota, Ill.**									
14383	Shirland.....Ill.											
14385	Durand.....Ill.		+ 157									
14387	Davis.....Ill.		I 162	(1)210	(1)230	(1)230	♦(1)(3)235	(1)240	♦(1)(3)235	(1)222	(1)247	(1)275
14389	Rock City.....Ill.											
14391	Dakota.....Ill.											
14393	Freeport.....Ill.		(2)(4)	(1)(29)195	(1)(29)215	(1)(29)215	(1)(29)220	(1)(29)225	(1)(29)220	(1)217	(1)242	(1)(29)260

(1) Issued in conformity with order of the Interstate Commerce Commission in Docket No. 25419 dated March 3, 1942.
(2) For rates see Missouri Pacific RR Freight Tariff No. 896-Q, I. C. C. No. A-9487, Ill. C. C. No. 397, I. C. R. R. Coal Tariff No. 3020-H.
(3) **Effective August 2, 1942.** Issued on five (5) days' notice under special permission of the Interstate Commerce Commission No. 10671 of July 22, 1942.
(4) ♦ Cancel on interstate traffic. Apply class or combination rates.
For explanation of other Reference Marks, see pages 90 and 91 of tariff, as amended.

RATES AND CHARGES PUBLISHED IN THIS SUPPLEMENT ARE SUBJECT TO THE INCREASES PROVIDED IN ITEM X-148 OR SUCCESSIVE ISSUES THEREOF.
THIS SUPPLEMENT IS SUBJECT TO PROVISIONS OF SUPPLEMENT No. 20.

Supplement No. 27 to
I. C. C. No. B-7246

Supplements Nos. ①1, ②9, ③10, 13, ①14, 18, ④20, 25, 26 and 27 contain all changes from the original tariff that are effective on the date hereof.

Supplement No. 27 to G. F. D. No. 15200-D

Supplements Nos. ①1, ②9, ③10, 13, ①14, 18, ④20, 25, 26 and 27 contain all changes.

①Under postponement.
②Postponement Notice.
③Partial Vacation Notice—I. & S. Docket 4532 (Short Line Routing).
④Special Supplement (Service Order No. 68).

Chicago, Milwaukee, St. Paul and Pacific Railroad Company

(HENRY A. SCANDRETT, WALTER J. CUMMINGS, GEORGE I. HAIGHT, TRUSTEES)

IN CONNECTION WITH

Participating Carriers Named on Pages 2 and 3 of Tariff as Amended.

SUPPLEMENT TO

LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF

NAMING COMMODITY RATES ON

Bituminous Coal, Carloads

Minimum weights as provided in tariff

FROM

Mines and Stations in Indiana on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Terre Haute Division) and Indiana Railroad

(As shown on page 3 of tariff.)

TO

Stations on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and Connecting Lines in Illinois, Iowa, Kansas, Michigan (Upper Peninsula), Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin

This tariff contains rates that are higher for shorter distances than for longer distances over the same route, such departure from the terms of the amended fourth section of the Act to regulate commerce is permitted by authority of Interstate Commerce Commission Fourth Section Orders as indicated in tariff as amended, and Fourth Section Order No. 14062 of December 27, 1940.

ISSUED JULY 1, 1942. **EFFECTIVE AUGUST 2, 1942.**

Issued in compliance with order of the Interstate Commerce Commission in Docket No. 25419 of March 3, 1942, as amended June 1, 1942.

This supplement is issued under authority of Rule 9 (m), Tariff Circular No. 20. It will be cancelled by a new supplement to be filed on or before October 1, 1942.

Issued by

J. J. LANDRIGAN,
Assistant General Freight Agent,
516 West Jackson Boulevard,
(A.U.G.) Chicago, Illinois.

W. H. KUHLS,
Coal Traffic Manager,
Chicago, Illinois.

E. J. HYETT,
General Freight Agent,
Chicago, Illinois.

MADE IN U. S. A. (3500) (Edw. Keogh Ptg. Co., Chicago—81578)

1645

Refer to page 40 of tariff, or as amended, and make the following change:

EXPLANATION OF SYMBOLS AND REFERENCE MARKS

Cancels corresponding symbols or reference marks appearing on page 40 of tariff, or as amended.

Symbol or Reference Mark.	EXPLANATION.
②	Issued in compliance with order of the Interstate Commerce Commission in Docket No. 25419 of March 3, 1942, as amended June 1, 1942. (CC-1587; CC-1636.)

Rates named in this supplement supersede rates named in tariff or as amended, appearing on pages 45, 46, 60, 61, 64 and 73 from and to stations bearing corresponding index numbers.

RATES IN CENTS PER TON OF 2,000 POUNDS.

Index No.	TO	FROM DISTRICTS. (See page 3 of tariff.) Clinton. L	Clinton. F	Linton. L	Linton. F	Route. (See Items 200 to 820 of tariff, as amended.)
	C. M. St. P. & P. R. R.					
287	Davis Junction Ill.	◆190	◆190	◆200	◆200	A
288	Stillman Valley Ill.	◆190	◆190	◆200	◆200	A
289	Byron Ill.					
290	Leaf River Ill.	◆190	◆190	◆200	◆200	A
291	Adeline Ill.					
292	Forreston Ill.	◆190	◆190	◆200	◆200	A
293	Harper Ill.	◆190	◆190	◆200	◆200	A
324	Holcomb Ill.	◆207	◆207	◆212	◆212	A
325	Kings Ill.					
326	Flag Center Ill.					
327	Rochelle Ill.	◆189	◆189	◆199	◆199	B
328	Steward Junction Ill.	◆185	◆185	◆195	◆195	B
329	Scarboro Ill.					
330	Roxbury Ill.					
331	Welland Ill.					
371	Beloit Wis.	▲②210	▲②210	▲②220	▲②220	㉘A
374	Rockton Ill.	◆210	◆210	◆220	◆220	A
375	Roscoe Siding Ill.					
376	Latham Park Ill.					
377	Rockford Ill.	◆195	◆195	◆205	◆205	A
377-A	Camp Grant Ill.					

Index No.	TO	FROM DISTRICTS. (See page 3 of tariff.) Clinton. L	Clinton. F	Linton. L	Linton. F	Route. (See Items 200 to 820 of tariff, as amended.)
	C. & N. W. Ry. —Concluded.					
2355	Malta Ill.	◆189	◆189	◆199	◆199	A
2356	Creston Ill.					
2357	Rochelle Ill.					
2358	Flagg Ill.	◆189	◆189	◆199	◆199	A
2359	Ashton Ill.					
2360	Franklin Grove Ill.					
2361	Nachusa Ill.					
2362	Dixon Ill.	◆189	◆189	◆199	◆199	A
2363	Nelson Ill. (Lee Cy.)					
2364	Sterling Ill. (Rock Falls.)					
2380	Belvidere Ill.	◆212	◆212	◆217	◆217	A
2381	Cherry Valley Ill.					
2382	Rockford Ill.					
2383	Winnebago Ill.	◆212	◆212	◆217	◆217	A
2384	Pecatonica Ill.					
2385	Ridott Ill.					
2386	Freeport Ill.					
2387	St. Charles Ill.	◆189	◆189	◆194	◆194	C
2406	Sycamore Ill.	◆189	◆189	◆194	◆194	A
2446	Roscoe Ill.	◆227	◆227	◆232	◆232	C
2796	Beloit Wis.	◆②227	◆②227	◆②232	◆②232	C

378	Shirland	Ill.					
379	Durand	Ill.	◆210	◆210	◆220	◆220	A
380	Davis	Ill.					
381	Rock City	Ill.					
382	Dakota	Ill.	◆210	◆210	◆220	◆220	A
383	Freeport	Ill.	◆195	◆195	◆205	◆205	A
384	Florence	Ill.					
385	Shannon	Ill.	◆195	◆195	◆205	◆205	A
386	Nichols	Ill.					
387	Wilkinson	Ill.	◆185	◆185	190	190	A
388	Bradt	Ill.					
389	De Kalb	Ill.	◆185	◆185	◆190	◆190	A
	C. & N. W. Ry.						
2349	Geneva	Ill.	◆189 (24)	◆189 (24)	◆194 (24)	◆194 (24)	C
2350	La Fox	Ill.					
2351	Elburn	Ill.					
2352	Maple Park	Ill.	◆189	◆189	◆194	◆194	C
2353	Cortland	Ill.					
2354	De Kalb	Ill.					

	C. G. W. R. R.						
3906	St. Charles	Ill.	◆189	◆189	◆194	◆194	A
3908	Wasco	Ill.					
3909	Lily Lake	Ill.					
3910	Virgil	Ill.	◆189	◆189	◆194	◆194	A
3911	Richardson	Ill.					
3913	Sycamore	Ill.					
3914	De Kalb	Ill.	◆189	◆189	◆194	◆194	A
3915	Five Points	Ill.					
3916	Wilkinson	Ill.	◆195	◆195	◆200	◆200	A
3917	Clare	Ill.	◆207	◆207	◆212	◆212	A
3918	Esmond	Ill.					
3919	Lindenwood	Ill.					
3920	Holcomb	Ill.	◆207	◆207	◆212	◆212	A
3921	Stillman Valley	Ill.					
3922	Byron	Ill.					
3923	Myrtle	Ill.					
3924	Egan	Ill.	◆207	◆207	◆212	◆212	A
3925	German Valley	Ill.					
3927	South Freeport	Ill.	◆207	◆207	◆212	◆212	A

For explanation of abbreviations and other reference marks, see pages 2, 40, 46 and 60 of tariff, or as amended.

Rates named in this supplement supersede rates named in tariff or as amended, appearing on pages 93 and 94 from and to stations bearing corresponding index numbers.

RATES IN CENTS PER TON OF 2,000 POUNDS.

Index No.	TO	FROM DISTRICTS. (See page 3 of tariff.) Clinton. L	Clinton. F	Linton. L	Linton. F	Route. (See Items 200 to 820 of tariff, as amended.)
	I. C. R. R.					
7495	Dixon.....Ill.	.....	.....	♦199	♦199	A
7506	Amboy.....Ill.					
7507	Eldena.....Ill.	.....	.....	♦199	♦199	A
7508	North Dixon.....Ill.					
7509	Woosung.....Ill.					
7510	Polo.....Ill.					
7511	Haldane.....Ill.	.....	.....	♦212	♦212	A
7512	Forreston.....Ill.					
7513	Baileyville.....Ill.	.....	.....	♦217	♦217	A
	I. C. R. R. —Concluded.					
7572	Hart.....Ill.					
7573	Colvin Park.....Ill.					
7574	Irene.....Ill.	♦202	♦202	♦207	♦207	B
7575	Perryville.....Ill.					
7576	Rockford.....Ill.	♦212	♦212	♦217	♦217	B
7577	Alworth.....Ill.					
7578	Seward.....Ill.					
7579	Evarts.....Ill.	♦212	♦212	♦217	♦217	B
7580	Freeport.....Ill.					
7604	Eleroy.....Ill.	♦212	♦212	218	218	B

For explanation of abbreviations and reference marks, see pages 2 and 40 of tariff, or as amended.

RATES AND CHARGES PUBLISHED IN THIS SUPPLEMENT ARE SUBJECT TO THE INCREASES PROVIDED IN ITEM X-148 OR SUCCESSIVE ISSUES THEREOF.
THIS SUPPLEMENT IS SUBJECT TO PROVISIONS OF SUPPLEMENT No. 20.

Supplement No. 28 to
I. C. C. No. B-7246
Cancels Supplements Nos. 25 and 26.
Supplements Nos. ①1, ③9, ②10, 13, ①14, 18, ④20, 27 and 28 contain all changes from the original tariff that are effective on the date hereof.

Supplement No. 28 to G. F. D. No. 15200-D **Cancels Supplements Nos. 25 and 26**

Supplements Nos. ①1, ③9, ②10, 13, ①14, 18, ④20, 27 and 28 contain all changes.

①Under postponement.
②Postponement Notice.
③Partial Vacation Notice—I. & S. Docket 4532 (Short Line Routing).
④Special Supplement (Service Order No. 68).

Chicago, Milwaukee, St. Paul and Pacific Railroad Company

(HENRY A. SCANDRETT, WALTER J. CUMMINGS, GEORGE I. HAIGHT, TRUSTEES)

IN CONNECTION WITH

Participating Carriers Named on Pages 2 and 3 of Tariff as Amended.

SUPPLEMENT TO

LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF

NAMING COMMODITY RATES ON

Bituminous Coal, Carloads

Minimum weights as provided in tariff

FROM

Mines and Stations in Indiana on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Terre Haute Division) and Indiana Railroad
(As shown on page 3 of tariff.)

TO

Stations on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and Connecting Lines in Illinois, Iowa, Kansas, Michigan (Upper Peninsula), Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin

This tariff contains rates that are higher for shorter distances than for longer distances over the same route, such departure from the terms of the amended fourth section of the Act to regulate commerce is permitted by authority of Interstate Commerce Commission Fourth Section Orders as indicated in tariff as amended, and Fourth Section Order No. 14062 of December 27, 1940.

ISSUED JULY 7, 1942.

EFFECTIVE AUGUST 10, 1942.
(Except as otherwise provided herein.)

Issued by

J. J. LANDRIGAN,
Assistant General Freight Agent,
513 West Jackson Boulevard,
(A.U.G.) Chicago, Illinois.

W. H. KUHLS,
Coal Traffic Manager,
Chicago, Illinois.

E. J. HYETT,
General Freight Agent,
Chicago, Illinois.

MADE IN U. S. A. (3500) (Edw. Keogh Ptg. Co., Chicago—5643)

1648

Item	INCREASE IN RATES AND CHARGES.
	Except as otherwise provided, rates and charges in this tariff and prior supplements are subject to the **Tariff of Increased Rates and Charges No. X-148,** Agent L. E. Kipp's I. C. C. No. A-3386. **Reissued from Supplement No. 22, effective March 18, 1942.**
§X-148	Except as otherwise provided, rates and charges in supplements referring to this item are subject to **Tariff of Increased Rates and Charges,** referred to above. **Reissued from Supplement No. 23, effective April 3, 1942.**
	§The form of this publication is permitted under permission of the Interstate Commerce Commission No. 7620 of March 2, 1942, as amended.

[21] POSTPONEMENT NOTICE.

The effective date of Supplement No. 14 to I. C. C. No. B-7246, Supplement No. 14 to G. F. D. No. 15200-D, now under postponement until May 9, 1942, is hereby further postponed until November 9, 1942.
During period of postponement rates named in tariff, or as amended, will apply.

Refer to page 3 of tariff, or as amended, and make the following changes:

LIST OF PARTICIPATING CARRIERS

Carriers. The List of Participating Carriers is as shown in tariff, and effective supplements, except:	Abbreviations.	Concurrence. FX	Concurrence. No.
[2] Toledo, Peoria & Western Railroad	T. P. & W. R. R.	Eliminate (see T. P. & W. R. R. below.	
[2] Toledo, Peoria & Western Railroad (John W. Barriger, Federal Manager)	T. P. & W. R. R.	5	33
[21] Wabash Railway Company (Norman B. Pitcairn and Frank C. Nicodemus, Jr., Receivers)	Wab. Ry	Eliminate. (See Wab Ry. below.)	
[21] Wabash Railroad Company	Wab. R. R.	4	921

CHANGE IN NAME OF CARRIERS.

The Carrier shown in Column No. 2 below, by its adoption notice shown in Column No. 3 below, having taken over tariffs, etc., of the Carrier shown in Column No. 1 below, the Carrier shown in Column No. 2 below is hereby substituted for the carrier shown in Column No. 1 below wherever it appears in this tariff, as amended.

COLUMN No. 1. Old Carrier.	COLUMN No. 2. Adopting Carrier.	COLUMN No. 3. Adoption Notice.
Toledo, Peoria & Western Railroad	Toledo, Peoria & Western Railroad (John W. Barriger, Federal Manager)	I. C. C. 254
Wabash Railway Company (Norman B. Pitcairn and Frank C. Nicodemus, Jr., Receivers)	Wabash Railroad Company	I. C. C. 7358

Refer to pages 10, 21, 26 and 32 of tariff, or as amended, and make the following additions:

INDEX OF POINTS TO WHICH RATES APPLY.

STATIONS.	Index No.	STATIONS.	Index No.	STATIONS.	Index No.
Camp Grant.....Ill.	377-A	Merrimac (Sauk City-Prairie du Sac).....Wis.	425-A	Rosemount (Gopher Ordnance Works).....Minn.	4058
Capitol Drive.....Wis.	°15				
Jackson Street.....Wis.	°15				

Refer to page 40 of tariff, or as amended, and make the following changes:

EXPLANATION OF SYMBOLS AND REFERENCE MARKS

Cancels corresponding symbols or reference marks appearing on page 40 of tariff, or as amended.

Refer to page 40 of tariff, or as amended, and make the following changes:

EXPLANATION OF SYMBOLS AND REFERENCE MARKS

Cancels corresponding symbols or reference marks appearing on page 40 of tariff, or as amended.

Symbol or Reference Mark.	EXPLANATION.
⊙	Item.
26 1	Issued in compliance with order of the Interstate Commerce Commission in Docket No. 25419 of March 3, 1942, as amended April 30, 1942. (CC-1587; CC-1636.)
25 (1)	Applies via C. M. St. P. & P. R. R. through Savanna, Ill. **Rate expires with December 31, 1942,** unless sooner cancelled, changed or extended. (CC-1695-5.)
21 (8)	**Expires with September 30, 1942,** unless sooner cancelled, changed or extended. (CC-1472.)
25 (26)	Applies via route provided in tariff to junction with C. & N. W. Ry., thence via C. & N. W. Ry. through Madison, Elroy, Wilton and Sparta, Wis. **Rates expire with December 31, 1942,** unless sooner cancelled, changed or extended. (CC-1695-5.)
21*	**Reissued** from Supplement No. 21, effective March 31, 1942.
23 A	**Reissued** from Supplement No. 23, effective April 3, 1942.
24	**Reissued** from Supplement No. 24, effective May 9, 1942.
25	**Reissued** from Supplement No. 25, effective June 15, 1942.
26	**Reissued** from Supplement No. 26, effective July 2, 1942.

For explanation of abbreviations and other reference marks, see pages 2 and 40 of tariff, or as amended.

APPLICATION OF RATES.

Item	Subject.	Application.
[21] 15-B Cancels 15-A	Application of Milwaukee, Wis., Rates.	Rates published herein to Milwaukee, Wis., will also apply to following stations. Routing to be the same as routing to Milwaukee, Wis., via destination line on which station is located.

Station.	Railroad on which Located.	Station.	Railroad on which Located.
Bay View.....Wis.	C. M. St. P. & P. / C. & N. W.	Milwaukee Stock Yards.....Wis.	C. M. St. P. & P.
Capitol Drive.....Wis.	C. & N. W.	Mitchell Street.....Wis.	C. & N. W.
Chestnut Street.....Wis.	C. M. St. P. & P.	National Home.....Wis.	C. M. St. P. & P.
East North Avenue...Wis.	C. & N. W.	North Avenue.....Wis.	C. M. St. P. & P.
Gibson.....Wis.	C. M. St. P. & P.	North Milwaukee.....Wis.	C. M. St. P. & P.
Florida Street.....Wis.	C. & N. W.	Shorewood.....Wis.	C. & N. W.
Jackson Street.....Wis.	C. & N. W.	Stowell.....Wis.	C. M. St. P. & P.
Layton Park.....Wis.	C. & N. W.	Wauwatosa.....Wis.	C. M. St. P. & P.
Lincoln Avenue.....Wis.	C. & N. W.	West Allis.....Wis.	C. M. St. P. & P. / C. & N. W.
Milwaukee Shops...Wis.	C. M. St. P. & P.		

[21] 100-B Cancels 100-A	Minimum Weights.	**In Open Top Cars:** Minimum weight will be the marked capacity of car loaded, except that when car is loaded to full visible capacity actual weight of Coal will be the minimum weight. **In Box Cars or Stock Cars:** When marked capacity of car is 80,000 pounds or less minimum weight will be 60,000 pounds. When marked capacity of car is over 80,000 pounds minimum weight will be 80,000 pounds. (CC-1358-1-X.)

Rates named in this supplement are additions to rates appearing on page 47 of tariff and also supersede rates named in tariff or as amended, appearing on pages 46, 47, 62, 75, 81 and 96 from and to stations bearing corresponding index numbers.

RATES IN CENTS PER TON OF 2,000 POUNDS.

Index No.	TO	FROM DISTRICTS. (See page 3 of tariff.) Clinton. L	Clinton. F	Linton. L	Linton. F	Route. (See Items 200 to 820 of tariff, as amended.)	Index No.	TO	FROM DISTRICTS. (See page 3 of tariff.) Clinton. L	Clinton. F	Linton. L	Linton. F	Route. (See Items 200 to 820 of tariff, as amended.)

Index No.	TO	FROM DISTRICTS. (See page 3 of tariff.) Clinton. L	Clinton. F	Linton. L	Linton. F	Route. (See Items 200 to 820 of tariff, as amended.)
	C. M. St. P. & P. R. R.					
368	Clinton Jct.....Wis.					
369	Porters.....Wis.	]249	]249	]259	]259	A
370	Morgan's Farm...Wis.					
372	Riton.....Wis.	©	©	©	©	.....
373	Afton.....Wis.	]249	]249	]259	]259	A
414	Milton Jct.....Wis.	]253	]253	]263	]263	A
23A 425-A	Merrimac (Sauk City-Prairie du Sac) (CC-1914.) Wis.	293	293	303	303	A
470	Janesville.....Wis.	]249	]249	]259	]259	A
	C. & N. W. Ry.					
2500	Clinton Jct.....Wis.					
2501	Tiffany.....Wis.	]249	]249	]259	]259	C
2502	Janesville.....Wis.					
2503	Milton Jct.....Wis.					
2504	Koshkonong.....Wis.	]253	]253	]263	]263	C
2505	Ft. Atkinson.....Wis.					

Index No.	TO	FROM DISTRICTS. (See page 3 of tariff.) Clinton. L	Clinton. F	Linton. L	Linton. F	Route. (See Items 200 to 820 of tariff, as amended.)
	C. & N. W. Ry. —Concluded					
2797	Afton.....Wis.	]249	]249	]259	]259	C
23A 2811	Okee.....Wis.	293	293	303	303	C
23A 2812	Merrimac.....Wis.					
	C. G. W. R. R.					
4058	Rosemount (Gopher Ordnance Works).....Minn. (Formerly Coates.)	360	341	370	351	A
	C. R. I. & P. Ry.					
5078	Fernald.....Iowa	350	331	360	341	A, C
	M. C. & C. L. R. R.					
8002	Emery.....Iowa (CC-1720-31.)	350	†§ ⑤285	360	†§ ⑤295	A

©**Cancel** account no facilities for handling freight.

†**Effective July 15, 1942.** Issued on five days' notice under permission of the Interstate Commerce Commission No. 10219 of July 2, 1942.

For explanation of abbreviations and other reference marks, see pages 2 and 40 of tariff, or as amended.

Item	Commodities.	Application. From	Application. To	Rates in Cents per Ton of 2,000 Pounds.
150-A Cancels 150	**Bituminous Coal.** Minimum weight as shown in Item 100 of tariff, or as amended. (Route via Terre Haute, Ind.) (CC-1587.) (CC-1636.)	**Indiana Railroad.** Seeleyville....Ind. (Bob O'Link Mine)	**C. M. St. P. & P. R. R.**	
			Adeline....Ill.	♦200
			Almora....Ill.	190
			Bartlett....Ill. (Cook Co.)	190
			Bensenville....Ill.	190
			Bradt....Ill.	184
			Byron....Ill.	♦200
			Davis Junction...Ill.	♦200
			Elgin....Ill.	190
			Fairdale....Ill.	190
155-A Cancels 155			Florence....Ill.	202
			Forreston....Ill.	♦200
			Freeport....Ill.	♦212
			Genoa....Ill.	190
			Hammond's....Ill.	190
			Hampshire....Ill.	190
			Harper....Ill.	♦200
			Itasca....Ill.	190
			Kingston....Ill.	190
160-A Cancels 160			Kirkland....Ill.	190
			Leaf River....Ill.	♦200
			McQueen....Ill.	190
			Medinah....Ill.	190
			Monroe Center...Ill.	190
			New Lebanon...Ill.	190
			Nichols....Ill.	190
			Ontarioville....Ill.	190
			Pingree Grove...Ill.	190
165-A Cancels 165			Rockford....Ill.	♦212
			Roselle....Ill.	190
			Shannon....Ill.	202
			Spaulding....Ill.	190
			Starks....Ill.	190
			Stillman Valley..Ill.	♦200
			Wilkinson....Ill.	190
			Wooddale....Ill.	190

For explanation of abbreviations and reference marks, see pages 2 and 40 of tariff, or as amended.

Subject to Tariff of Increased Rates and Charges No. X-148, Agent B. T. Jones' I. C. C. No. 3659, Ind. R. C. No. D-693, C. T. C. No. 1801, C. I. & L. Ry. Freight Tariff No. 1607, supplements thereto or successive issues thereof.

Supplement No. 20 to
I. R. C. No. 3234
(Cancels Supplement No. 17)
Supplements Nos. 11, 15, 18, 19 and 20 contain all changes from the original tariff that are effective on the date hereof.

Supplement No. 20 to
I. C. C. No. 4724
(Cancels Supplement No. 17)
Supplements Nos. 11, 15, 18, 19 and 20 contain all changes from the original tariff that are effective on the date hereof.

Supplements Nos. 1 and 2 under suspension. Supplement No. 4—Suspension Notice—I. & S. 4840—Fine Coal, Ill., Ind. and Ky. to Twin Cities. Supplement No. 10 under postponement

Supplement No. 20 to
C. I. & L. Ry. Freight Tariff No. 408-D
(Cancels Supplement No. 17)
Supplements Nos. 11, 15, 18, 19 and 20 contain all changes from the original tariff that are effective on the date hereof.
Supplements Nos. 1 and 2 under suspension. Supplement No. 4—Suspension Notice—I. & S. 4840—Fine Coal, Ill., Ind. and Ky. to Twin Cities. Supplement No. 10 under postponement.

MONON ROUTE

Chicago, Indianapolis and Louisville Railway Company

(L. F. DeRamus and Holman D. Pettibone, Trustees)

IN CONNECTION WITH CARRIERS SHOWN IN SECTION No. 1 OF TARIFF, AS AMENDED

Stamp Date Received

and Station

LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF

APPLYING ON

BITUMINOUS COAL, CARLOADS

FROM POINTS IN THE LINTON, INDIANA DISTRICT On The C. I. & L. Ry.

(As shown in Section No. 3 of tariff)

TO POINTS IN THE STATES OF

Illinois, Indiana, Iowa, Kansas, Kentucky (Northern Part), Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin and Wyoming

AND

Miscellaneous Rates on Bituminous Coal

FROM

Points on C. I. & L. Ry.

TO

Points on C. I. & L. Ry. and Connections

ALSO

Local Distance Rates on Bituminous Coal

Between Stations on C. I. & L. Ry. in Indiana

(See Item 70, Section 10 of tariff)

(See Item 70, Section 10 of tariff)

Governed, except as otherwise provided herein, by the Official Classification No. 59, issued by A. H. Greenly, Agent, I. C. C.-O. C. No. 59, I. R. C.-O. C. No. 59, C. I. & L. Ry. Freight Tariff No. 1405-N, by exceptions thereto, Freight Tariff No. 130-B, issued by B. T. Jones, Agent, I. C. C. No. 3684, Ind. R. C. No. D-698, C. I. & L. Ry. Freight Tariff No. 1501-S, by Rules and Regulations shown in Freight Tariff No. 515-D, issued by B. T. Jones, Agent, I. C. C. No. 3587, Ind. R. C. No. D-680, C. I. & L. Ry. Freight Tariff No. 1501-D, and by supplements to or successive issues of said publications.

ISSUED JUNE 27, 1942 **EFFECTIVE AUGUST 2, 1942**
(except as otherwise provided herein)

This supplement is issued under authority of Rule 9 (m) of Tariff Circular No. 20.

(72)Ex Parte 148 Increase in Rates and Charges supplement.

Departure from the terms of Rule 28(a) of Tariff Circular No. 20 is authorized under permission of the Interstate Commerce Commission No. 154301 of July 3, 1936.

For explanation of abbreviations, see Sections Nos. 1 and 6 of tariff, as amended.

J. R. VAN DELINDER,
General Freight Agent

F. W. KUHN,
General Freight Agent

J. L. FORTIER,
Assistant General Freight Agent

Issued by C. A. PFISTER,
Assistant General Freight Agent

C. I. & L. Ry. General Offices: Transportation Building, 608 South Dearborn St., Chicago, Ill.

(1900) (PACC-61) (Made in U. S. A.) (39970)

1652

Refer to pages 59, 60, 62, 69, 71, 72 and 97 of tariff, page 2 of Supplement No. 13 and page 4 of Supplement No. 18 and make the following changes:

SECTION No. 8
RATES ON BITUMINOUS COAL, CARLOADS, AS DESCRIBED IN SECTION No. 2, OF TARIFF

FROM POINTS IN THE LINTON DISTRICT ON THE CI&L
Shown in Section No. 3, of tariff
For Routing, See Sections Nos. 11 and 12, of tariff, as amended
RATES IN CENTS PER TON OF 2,000 POUNDS
For Minimum Weight, see Rule 6, Section No. 7, of tariff

Station Nos.	TO	RATES Lump	RATES Fine
	C&NW		
5813	Geneva Ill.	(55)♦194	(55)♦194
5815	La Fox Ill.		
5817	Elburn Ill.		
5819	Maple Park Ill.	♦194	♦194
5821	Cortland Ill.		
5823	De Kalb Ill.		
5825	Malta Ill.		
5827	Creston Ill.		
5829	Rochelle Ill.		
5831	Flagg Ill.		
5833	Ashton Ill.		
5835	Franklin Grove Ill.	♦199	♦199
5837	Nachusa Ill.		
5838	Dixon Ill.		
5839	Nelson (Lee Co.) Ill.		
5841	Sterling (Rock Falls) Ill.		
5873	Belvidere Ill.		
5875	Cherry Valley Ill.		
5877	Rockford Ill.		
5879	Winnebago Ill.	♦217	♦217
5881	Pecatonica Ill.		
5883	Ridott Ill.		
5884	Freeport Ill.		
5885	St. Charles Ill.	♦194	♦194
5919	Sycamore Ill	♦194	♦194
6003	[17]Clinton Jct Wis.		
6005	[17]Tiffany Wis.	(55)259	(55)259
6007	[17]Janesville Wis.		
6135	[17]Milton Jct Wis.		
6137	[17]Koshkonong Wis.	(55)263	(55)263
6139	[17]Ft. Atkinson Wis.		
6955	Roscoe Ill.	♦232	♦232
6957	Beloit Wis.	♦(55)232	♦(55)232
6959	[17]Afton Wis.	(55)259	(55)259
	CGW		
12713	St. Charles Ill.		
12717	Wasco Ill.		
12719	Lily Lake Ill.	♦194	♦194
12721	Virgil Ill.		
12723	Richardson Ill.		
	CGW —Concluded		
12727	Sycamore Ill.		
12729	De Kalb Ill.		
12731	Five Points Ill.	♦194	♦194
12733	Wilkinson Ill.		
12735	Clare Ill.		
12737	Esmond Ill.		
12739	Lindenwood Ill.		
12741	Holcomb Ill.		
12743	Stillman Valley Ill.		
12745	Byron Ill.	♦212	♦212
12747	Myrtle Ill.		
12749	Egan Ill.		
12751	German Valley Ill.		
12752	South Freeport Ill.		
	CMStP&P		
14221	Davis Junction Ill.		
14223	Stillman Valley Ill.		
14225	Byron Ill.		
14227	Leaf River Ill.		
14229	Adeline Ill.	♦205	♦205
14231	Forreston Ill.		
14233	Harper Ill.		
14235	Lanark Ill.		
14237	Fay Ill.		
14274	Rockford Ill.	♦217	♦217
14275	Camp Grant Ill.		
14279	Bradt Ill.	♦194	♦194
14280	De Kalb Ill.		
14295	Holcomb Ill.		
14296	Kings Ill.	♦212	♦212
14297	Flag Center Ill.		
14298	Rochelle Ill.	♦199	♦199
14299	Stewart Jct Ill.		
14300	Scarboro Ill.	♦195	♦195
14301	Roxbury Ill.		
14302	Welland Ill.		
14361	[17]Clinton Junction Wis.		
14363	[17]Porters Wis.	(55)(58)259	(55)(58)259
14365	[17]Morgan's Farm Wis.		
14367	[17]Perrigo Spur Wis.		
	CMStP&P —Concluded		
14369	Beloit Wis.	(55)♦232	(55)♦232
14372	[17]Afton Wis.	(53)(58)259	(53)(58)259
14373	Rockton Ill.		
14375	Roscoe Siding Ill.		
14377	Latham Park Ill.		
14383	Shirland Ill.		
14385	Durand Ill.	♦222	♦222
14387	Davis (Stephenson Co.) Ill.		
14389	Rock City Ill.		
14391	Dakota Ill.		
14393	Freeport Ill.		
14395	Florence Ill.	♦217	♦217
14397	Shannon Ill.		
14427	[17]Milton Junction Wis.	(53)(58)263	(53)(58)263
14501	[17]Janesville Wis.	(53)(58)259	(53)(58)259
	IC		
26388b	Baileyville Ill.	♦217	♦217
26389	Forreston Ill.		
26390	Haldane Ill.	♦212	♦212
26391	Polo Ill.		
26392	Woosung Ill.		
26393	North Dixon Ill.		
26394	Dixon Ill.	♦199	♦199
26395	Eldena Ill.		
26396	Amboy Ill.		
26457	Hart Ill.		
26459	Colvin Park Ill.	♦207	♦207
26461	Irene Ill.		
26463	Perryville Ill.		
26465	Rockford Ill.		
26467	Alworth Ill.		
26469	Seward Ill.	♦217	♦217
26471	Evarts Ill.		
26473	Freeport Ill.		

♦Denotes increase.
(55)Will not apply for delivery at St. Charles School for Boys. When for this delivery, rate will be $3.85 per car over rates published herein to Geneva, Ill.
(58)Applies only through Davis Junction, Ill.
(53)Issued in compliance with order of the Interstate Commerce Commission in Docket No. 25419.
[17]**Reissued** from Supplement No. 17, effective July 2, 1942.
For explanation of abbreviations, see Sections Nos. 1 and 6 of tariff, as amended.

RATES AND CHANGES PUBLISHED HEREIN ARE SUBJECT TO TARIFF OF INCREASED RATES AND CHARGES, No. X-148; ALTERNATE AGENT W.S.MERCER'S I.C.C.No.526, ILL.C.C.No.268, IND.R.C.No.136, SUPPLEMENTS THERETO OR SUCCESSIVE ISSUES THEREOF.

THIS SUPPLEMENT IS SUBJECT TO THE PROVISIONS OF SUPPLEMENT No. (70) 11 AND (70) 11-A TO C&EI FT 100-C, SUPPLEMENT (70) 11 TO I.C.C.No.2, SUPPLEMENT No. (70) 10 TO ILL.C.C.No.2 AND SUPPLEMENT No. (70) 2 TO I.R.C.No.2.

SUPPLEMENT NO.17
TO
ILL. C.C. No. 2
(SUPPLEMENTS Nos. (68) 5, 8, (70) 10, (72) 12, (68) 13, 16 AND 17 CONTAIN ALL EFFECTIVE CHANGES)

SUPPLEMENT NO.7
TO
I.R.C. No. 2
(SUPPLEMENTS Nos. (70) 2, (72) 3, 6 AND 7 CONTAIN ALL EFFECTIVE CHANGES)

SUPPLEMENT NO.18
TO
I.C.C. No. 2
(SUPPLEMENTS Nos. (68) 6, 9, (70) 11, (72) 13, (68) 14, 17 AND 18 CONTAIN ALL EFFECTIVE CHANGES)

C&EI

CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY

IN CONNECTION WITH PARTICIPATING CARRIERS SHOWN ON PAGES 3 AND 4 OF TARIFF, OR AS AMENDED

SUPPLEMENT NO.18

(SUPPLEMENTS Nos. (68) 6, 9, (70) 11, (70) 11-A, (72) 13, (68) 14, 17 AND 18 CONTAIN ALL EFFECTIVE CHANGES)

TO

FREIGHT TARIFF NO.100-C

OF

LOCAL, JOINT AND PROPORTIONAL RATES

ON

BITUMINOUS COAL, CARLOADS

(IN CENTS PER TON OF 2,000 POUNDS, EXCEPT AS OTHERWISE PROVIDED)

(FOR APPLICATION OF RATES, SEE ITEM 10)

FROM STATIONS ON THE

CHICAGO & EASTERN ILLINOIS RAILROAD
EVANSVILLE, SUBURBAN & NEWBURGH RAILWAY
INDIANA RAILROAD
AND
MISSOURI-ILLINOIS RAILROAD

TO STATIONS IN

ARKANSAS	KENTUCKY	MONTANA	TENNESSEE
COLORADO	LOUISIANA	NEBRASKA	TEXAS
ILLINOIS	MICHIGAN	NORTH DAKOTA	WISCONSIN
INDIANA	MINNESOTA	OHIO	AND
IOWA	MISSISSIPPI	OKLAHOMA	WYOMING
KANSAS	MISSOURI	SOUTH DAKOTA	

ALSO

LOCAL DISTANCE RATES

(APPLYING ON BITUMINOUS COAL, CARLOADS)

BETWEEN STATIONS ON THE

CHICAGO & EASTERN ILLINOIS RAILROAD

ISSUED JUNE 27, 1942.

EFFECTIVE AUGUST 2, 1942.
(EXCEPT AS OTHERWISE PROVIDED HEREIN)

ISSUED BY,

H. N. WASHER,
GENERAL COAL AGENT
McCORMICK BUILDING, 332 SOUTH MICHIGAN AVENUE, CHICAGO, ILLINOIS.

REFERENCE MARKS

(Reference marks are as shown on pages 67 and 68 of tariff, page 3 of Supplement No.9 and page 3 of Supplement 17, with the following additions and changes):

(HD) Issued in compliance with order of the Interstate Commerce Commission in Docket No.25419, dated March 3,1942, as amended.
(H2) Applies only via C&EIRR, Momence, Ill., NYCRR, Ladd, Ill., CMStP&PRR.

AMENDS PAGES 85,86,87,88,93,118,119,124,125,126,187,188,191 and 192 OF TARIFF, AS AMENDED, AS FOLLOWS:

Index	FROM GROUPS (See Page 5 of Tariff) / TO	SOUTHERN ILLINOIS		SPRINGFIELD		DANVILLE		BRAZIL-CLINTON		SULLIVAN		PRINCETON	
		(A)	(B)	(A)	(B)	(A)	(B)	(A)	(B)	(A)	(B)	(A)	(B)
	CHICAGO AND NORTH WESTERN RAILWAY - CONCLUDED												
	ROUTE VIA	A		A		A		A		A		A	
1506 1507 1508 1509 1510 1511	(2D) Geneva. . . . . .Ill. LaFox. . . . . .Ill. Elburn . . . . . .Ill. Maple Park . . . . .Ill. Cortland . . . . . .Ill. DeKalb . . . . . .Ill.	♦205		♦175		♦185		♦189		♦194		♦201	
1512 1513 1514 1515 1516 1517 1518	Malta. . . . . .Ill. Creston. . . . . .Ill. Rochelle . . . . . .Ill. Flagg. . . . . .Ill. Ashton . . . . . .Ill. Franklin Grove . . .Ill. Nachusa. . . . . .Ill.	♦205		♦+175 75		♦185		♦189		♦199		♦206	
1519 152 152	Dixon. . . . . .Ill. Nelson . . . . . .Ill. Sterling (Rock Falls). . . . . .Ill.	♦205		♦+175 †175		♦189		♦189		♦199		♦206	
1531 1532 1533 1534 1535	Gilberts . . . . . .Ill. Huntley. . . . . .Ill. Union. . . . . .Ill. Marengo. . . . . .Ill. Garden Prairie . . .Ill.	♣225		♣195		♣195		197		202		209	
1536 1537 1538 1539 1540 1541 1542	Belvidere. . . . . .Ill. Cherry Valley. . . .Ill. Rockford . . . . . .Ill. Winnebago. . . . . .Ill. Pecatonica . . . . .Ill. Ridott . . . . . .Ill. Freeport . . . . . .Ill.	♦225		♦195		♦195		♦212		♦217		♦224	
1543	(2S) St.Charles. . . . .Ill.	♦205		♦175		♦185		♦189		♦194		♦201	
1559	Sycamore . . . . . .Ill.	♦205		♦175		♦185		♦189		♦194		♦201	
2007	Roscoe . . . . . .Ill.	240		210		210		♦227		♦232		♦239	
2008	Beloit . . . . . .Wis.	♣(HD) 240		♣(HD) 210		♣(HD) 210		♦(HD) 227		♦(HD) 232		♦(HD) 239	
	CHICAGO GREAT WESTERN RAILROAD												

CHICAGO GREAT WESTERN RAILROAD							
	ROUTE VIA ☛	A	A	A	A	A	A
4206	St.Charles . . . . .Ill.	♦205	♦175	♦185	♦189	♦194	♦201
4207 4208 4209 4210	Wasco. . . . . .Ill. Lily Lake. . . . . .Ill. Virgil . . . . . .Ill. Richardson . . . . .Ill.	205	175	♦185	♦189	♦194	♦201
4212 4213	Sycamore . . . . . .Ill. De Kalb. . . . . .Ill.	♦205	♦175	♦185	♦189	♦194	♦201
4214	Five Points. . . . .Ill.	♦215	♦185	♦185	♦189	♦194	♦201
4215	Wilkinson. . . . . .Ill.	♦215	♦185	♦185	♦195	♦200	♦207
4216	Clare. . . . . .Ill.	♦220	♦190	♦190	♦207	♦212	♦219

FOR EXPLANATION OF REFERENCE MARKS, SEE PAGES 67 AND 68 OF TARIFF, PAGE 3 OF SUPP.9, PAGE 3 OF SUPP.17 AND PAGE 2 HEREIN.

FOR EXPLANATION OF ROUTES, SEE PAGES 287 THRU 296 OF TARIFF, PAGE 9 OF SUPP.9 AND PAGE 7 OF SUPP.17.

Index	FROM GROUPS ☛ (See Page 5 of Tariff) / TO ☚	SOUTHERN ILLINOIS		SPRINGFIELD		DANVILLE		BRAZIL-CLINTON		SULLIVAN		PRINCETON	
		Ⓐ	Ⓑ	Ⓐ	Ⓑ	Ⓐ	Ⓑ	Ⓐ	Ⓑ	Ⓐ	Ⓑ	Ⓐ	Ⓑ
	CHICAGO GREAT WESTERN RAILROAD - CONCLUDED												
	ROUTE VIA ☛	A		A,H		A		A		A		A	
4217 4218 4219 4220 4221 4222 4223 4224	Esmond . . . . . .Ill. Linderwood . . . . .Ill. Holcomb . . . . . .Ill. Stillman Valley . .Ill. Byron . . . . . .Ill. Myrtle . . . . . .Ill. Egan . . . . . .Ill. German Valley . . .Ill.	♦220		♦190		♦190		♦207		♦212		♦219	
	ROUTE VIA ☛	A		A		A		A		A		A	
4225	South Freeport . . .Ill.	♦220		♦190		♦190		♦207		♦212		♦219	
	CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD												
	ROUTE VIA ☛	D		D		D		D		D		D	
4620 4621 4622	Duffin . . . . . .Ill. Troxel . . . . . .Ill. Chase . . . . . .Ill.	♦205		♦175		180		184		189		196	
4623	De Kalb . . . . . .Ill.	♦205		♦175		♦185		♦189		♦194		♦201	
4624	Bradt . . . . . .Ill.	214		180		♦185		♦189		♦194		♦201	
4625 4626	Wilkinson . . . . .Ill. Nichols . . . . .Ill.	220		180		♦185		190		195		202	
	ROUTE VIA ☛	A,C,D		A,C,D		A,C,D		A,C,D		A,C,D		A,C,D	
4686 4687 4688 4689 4690 4691	Davis Jct . . . . .Ill. Stillman Valley . .Ill. Byron . . . . . .Ill. Leaf River . . . . .Ill. Adeline . . . . . .Ill. Forreston . . . . .Ill.	♦220		♦190		♦190		♦200		♦205		♦212	
4692	Harper . . . . . .Ill.	225		♦190		♦190		♦200		♦205		♦212	
4693 4694	Lanark . . . . . .Ill. Fay . . . . . .Ill.	225		♦190		195		♦200		♦205		♦212	
4711 4712 4713	Holcomb . . . . . .Ill. Kings . . . . . .Ill. Flag Center . . . .Ill.	♦220		♦190		♦190		♦207		♦212		♦219	
	ROUTE VIA ☛ (EXCEPT AS NOTED)	A,C,D		A,C,D		A,C,D		A,C,D		A,C,D		A,C,D	

		ROUTE VIA (EXCEPT AS NOTED)	A,C,D	A,C,D	A,C,D	A,C,D	A,C,D	A,C,D
4714	Rochelle. . . . . .Ill.							
4715	Steward Jct . . . .Ill.							
4716	Scarboro. . . . . .Ill.		♦232	♦202	♦202	♦207	♦212	♦219
4717	Roxbury . . . . . .Ill.					(B2) 202	(B2) 207	(B2) 214
4718	Welland . . . . . .Ill.							
4719	Mendota . . . . . .Ill.							
4720	Peterstown. . . . .Ill.							
4721	Fitchmoor . . . . .Ill.							
4722	Ladd. . . . . .Ill.							
4723	Cherry. . . . . .Ill.							
4724	Seatonville . . . .Ill.		♦232	♦202	♦202	♦207	♦212	♦219
4725	Rowe. . . . . .Ill.		(B2) 227	(B2) 197	(B2) 197	(B2) 197	(B2) 202	(B2) 209
4726	De Pue. . . . . .Ill.							
4727	Moronts . . . . . .Ill.							
4728	Granville . . . . .Ill.							
4729	Standard. . . . . .Ill.							
4730	Cedar Point . . . .Ill.							
4731	Oglesby . . . . . .Ill.							
		ROUTE VIA	A,C,D	A,C,D	A,C,D	A,C,D	A,C,D	A,C,D
4747	Beloit. . . . . .Wis.		(B1) 240	(B1) 210	(B1) 210	(B1) 227	(B1) 232	(B1) 239
4749	Rockton . . . . . .Ill.							
4750	Roscoe Siding . . .Ill.		♦240	♦210	♦210	♦217	♦222	♦229
4751	Latham Park . . . .Ill.							
4752	Rockford. . . . . .Ill.		♦225	♦195	♦195	♦212	♦217	♦224

FOR EXPLANATION OF REFERENCE MARKS, SEE PAGES 67 AND 68 OF TARIFF, PAGE 3 OF SUPP.9, PAGE 3 OF SUPP.17 AND PAGE 2 HEREIN.
FOR EXPLANATION OF ROUTES, SEE PAGES 287 THRU 296 OF TARIFF, PAGE 9 OF SUPP.9 AND PAGE 7 OF SUPP.17.

Index	FROM GROUPS ☛ (See Page 5 of Tariff) / TO ☚	SOUTHERN ILLINOIS		SPRINGFIELD		DANVILLE		BRAZIL-CLINTON		SULLIVAN		PRINCETON	
		Ⓐ	Ⓑ	Ⓐ	Ⓑ	Ⓐ	Ⓑ	Ⓐ	Ⓑ	Ⓐ	Ⓑ	Ⓐ	Ⓑ
CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD - CONCLUDED													
	ROUTE VIA ☛	A,C,D		A,C,D		A,C,D		A,C,D		A,C,D		A,C,D	
4753 4754 4755 4756 4757	Shirland . . . . . .Ill. Durand . . . . . .Ill. Davis. . . . . .Ill. Rock City. . . . . .Ill. Dakota . . . . . .Ill.	♦240		♦210		♦210		♦217		♦222		♦229	
4758	Freeport . . . . . .Ill.	♦225		♦195		♦195		♦212		♦217		♦224	
4759 4760	Florence . . . . . .Ill. Shannon. . . . . .Ill.	♦225		♦195		♦195		♦212		♦217		♦224	
ILLINOIS CENTRAL RAILROAD													
	ROUTE VIA ☛	A		A		A		A		A		A	
9914 9915 9916 9917	Hart . . . . . .Ill. Colvin Park. . . . .Ill. Irene. . . . . .Ill. Perryville . . . . .Ill.	♦225		♦185		♦195		♦202		♦207		♦214	
9918	Rockford . . . . . .Ill.	♦225		♦195		♦195		♦212		♦217		♦224	
	ROUTE VIA ☛	B		B		A		A		A		A	
9919 9920 9921	Alworth. . . . . .Ill. Seward . . . . . .Ill. Evarts . . . . . .Ill.	♦225		♦195		♦195		♦212		♦217		♦224	
9922	Freeport . . . . . .Ill.	♦225		♦195		♦195		♦212		♦217		♦224	
9923	Eleroy . . . . . .Ill.	238		208		208		♦212		218		225	
10099	Baileyville. . . . .Ill.	♦225		♦195		♦212		♦212		♦217		♦224	
	ROUTE VIA ☛	B		B		D		D		D		D	
10100 10101 10102 10103	Forreston. . . . . .Ill. Haldane. . . . . .Ill. Polo . . . . . .Ill. Woosung. . . . . .Ill.	♦220		♦190		♦207		♦207		♦212		♦219	
10104 10105	North Dixon. . . . .Ill. Dixon. . . . . .Ill.	♦205		♦175		♦189		♦189		♦199		♦206	

FOR EXPLANATION OF REFERENCE MARKS, SEE PAGES 67 AND 68 OF TARIFF, PAGE 3 OF SUPP.9, PAGE 3 OF SUPP.17 AND PAGE 2 HEREIN.

FOR EXPLANATION OF ROUTES, SEE PAGES 287 THRU 296 OF TARIFF, PAGE 9 OF SUPP.9 AND PAGE 7 OF SUPP.17.

2903

1957

Subject to Tariff of Increased Rates and Charges No. X-148, Alternate Agent C. A. Spaninger's I. C. C. No. 765, Ill. C. C. No. 26, Ind. R. C. No. 17, supplements thereto or successive issues thereof.
This supplement is subject to the provisions of Supplement No. 23.

SUPPLEMENT No. 33
To
IND. R. C. No. C-443
Cancels
Supplement No. 32.
Supplements Nos. *a*2, *s*6, 8, 15, *d*16, *b*23, *c*25, 28, 29, *g*31 and 33 contain all changes from the original tariff.

SUPPLEMENT No. 34
To
ILL. C. C. No. C-278
Cancels
Supplement No. 33.
Supplements Nos. *a*2, *s*6, 8, 15, *d*16, *b*23, *c*25, *e*28, 29, *g*31, *f*32 and 34 contain all changes from the original tariff.

SUPPLEMENT No. 33
To
I. C. C. No. C-2230
Cancels
Supplement No. 32.
Supplements Nos. *a*2, *s*6, 8, 15, *d*16, *b*23, *c*25, 28, 29, *g*31 and 33 contain all changes from the original tariff.

SOUTHERN RAILWAY SYSTEM

FREIGHT TARIFF OF

SOUTHERN RAILWAY COMPANY

St. Louis-Louisville Divisions

IN CONNECTION WITH
PARTICIPATING CARRIERS NAMED ON PAGES A-3 AND A-4 OF TARIFF AND PAGE 2 OF SUPPLEMENTS Nos. 8, 15, 29 AND 31.

JOINT, EXPORT AND PROPORTIONAL RATES
ON
BITUMINOUS COAL, CARLOADS
ALSO
BITUMINOUS COAL BRIQUETTES, CARLOADS

SUPPLEMENT No. 33
TO
JOINT COAL TARIFF No. 809-G

Cancels
Supplement No. 32.
Supplements Nos. *a*2, *s*6, 8, 15, *d*16, *b*23, *c*25, *e*28, 29, *g*31, *f*+31A (Illinois) and 33 contain all changes from the original tariff.

a–Under Suspension.
b–Special Supplement. I. C. C. Service Order No. 68.
c–Special Supplement. I. C. C. Ex Parte No. 148.
d–Under Postponement.
e–Except portions under Suspension.
f–Suspension Supplement in Ill. C. C. Docket No. 30838.
g–Portions under Postponement.
s–Suspension Supplement in I. C. C.—I. & S. Docket No. 4840.
+Intrastate. (Not filed with I. C. C.).

FROM	TO POINTS IN THE STATES OF		
STATIONS AND MINES ON THE SOUTHERN RAILWAY IN ILLINOIS AND INDIANA ALSO FROM MINES ON THE ALGERS, WINSLOW AND WESTERN RY., EVANSVILLE & OHIO VALLEY RY., INC., AND EVANSVILLE, SUBURBAN & NEWBURGH RY.	ALABAMA	LOUISIANA	OHIO
	ARKANSAS	MICHIGAN	OKLAHOMA
	COLORADO	MINNESOTA	SOUTH CAROLINA
	ILLINOIS	MISSISSIPPI	SOUTH DAKOTA
	INDIANA	MISSOURI	TENNESSEE
	IOWA	MONTANA	TEXAS
	KANSAS	NEBRASKA	WISCONSIN
	KENTUCKY	NORTH DAKOTA	WYOMING

GOVERNED BY CLASSIFICATION, RULES AND REGULATIONS SHOWN IN TARIFF, AS AMENDED.

ISSUED JULY 1, 1942.

EFFECTIVE AUGUST 2, 1942.
(Except as otherwise provided herein.)

Departure from the terms of Rule 9(e) of Tariff Circular No. 20 is authorized under permission of the Interstate Commerce Commission, No. 7920 of March 17, 1942.

Departure from the terms of Rule 9(e) of Tariff Circular No. 3 is authorized under special permission of the Illinois Commerce Commission, No. R-12217 of April 10, 1942.

Issued by

W. M. KING,
Freight Traffic Manager.

A. W. GILL,
General Freight Agent,
307 East Fourth Street,
CINCINNATI, OHIO.

T. J. LOGAN,
Ass't General Freight Agent.

STATION TARIFF FILE No. 24.

1800-P-4404.
M. L. No. 2738.

Authority No. 61.
File 281-25419-ABA.
StL-GFO-4.

1658

POSTPONEMENT NOTICE.

(Reissued from Supplement No. 32, effective July 2, 1942.)

The effective date of rates bearing reference mark "31A", shown on pages 3, 4, 5, 6 and 7 of Supplement No. 31 to Southern Railway Company Joint Coal Tariff No. 809-G, I. C. C. No. C-2230, is hereby postponed from July 2, 1942, until September 2, 1942.

Rates named in tariff and effective supplements thereto will apply.

(Amends and cancels rates in Tariff, to corresponding Index Nos.)

RATES ON BITUMINOUS COAL, CARLOADS.

FROM STATIONS AND MINES IN ILLINOIS AND INDIANA (As Specified on Page A-5 of Tariff, as amended).

IN CENTS PER TON OF 2,000 POUNDS

Index No.	TO		FROM GROUP 1 Rates A (See Item 5)	FROM GROUP 1 Rates B (See Item 5)	FROM GROUP 1 Route No.	FROM GROUP 2 Rates A (See Item 5)	FROM GROUP 2 Rates B (See Item 5)	FROM GROUP 2 Route No.	FROM GROUP 3 Rates A (See Item 5)	FROM GROUP 3 Rates B (See Item 5)	FROM GROUP 3 Route No.
	Chicago and North Western Ry.										
2038	Geneva	Ill.	◆*b*195	◆*b*195	78	◆*b*204	◆*b*204	60	◆*b*201	◆*b*201	306
2039	La Fox	Ill.	◆195	◆195	78	◆204	◆204	60	◆201	◆201	306
2040	Elburn	Ill.	◆195	◆195	78	◆204	◆204	60	◆201	◆201	306
2041	Maple Park	Ill.	◆195	◆195	78	◆204	◆204	60	◆201	◆201	306
2042	Cortland	Ill.	◆195	◆195	78	◆204	◆204	60	◆201	◆201	306
2043	De Kalb	Ill.	◆195	◆195	78	◆204	◆204	60	◆201	◆201	306
2044	Malta	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	60, 306
2045	Creston	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	60, 306
2046	Rochelle	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	60, 306
2047	Flagg	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	60, 306
2048	Ashton	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	60, 306
2049	Franklin Grove	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	60, 306
2050	Nachusa	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	60, 306
2051	Dixon	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	60, 306
2052	Nelson	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	306
2053	Sterling (Rock Falls)	Ill.	◆195	◆195	78	◆209	◆209	60	◆206	◆206	306
2063	Gilberts	Ill.	◆215	◆215	21	212	212	60	*e*209	*e*209	306
2064	Huntley	Ill.	◆215	◆215	21	212	212	60	*e*209	*e*209	306
2065	Union	Ill.	◆215	◆215	21	212	212	60	*e*209	*e*209	306
2066	Marengo	Ill.	◆215	◆215	21	212	212	60	*e*209	*e*209	306
2067	Garden Prairie	Ill.	◆215	◆215	21	212	212	60	*e*209	*e*209	306
2068	Belvidere	Ill.	◆215	◆215	78	◆227	◆227	60	◆*f*224	◆*f*224	306
2069	Cherry Valley	Ill.	◆215	◆215	78	◆227	◆227	60	◆224	◆224	306
2070	Rockford	Ill.	◆215	◆215	78	◆227	◆227	60	◆224	◆224	306
2071	Winnebago	Ill.	◆215	◆215	78	◆227	◆227	60	◆224	◆224	306
2072	Pecatonica	Ill.	◆215	◆215	78	◆227	◆227	60	◆224	◆224	306
2073	Ridott	Ill.	◆215	◆215	78	◆227	◆227	60	◆224	◆224	306
2074	Freeport	Ill.	◆215	◆215	78	◆227	◆227	60	◆224	◆224	306
2075	St. Charles	Ill.	◆195	◆195	78	◆204	◆204	60	◆201	◆201	306
2090	Sycamore	Ill.	◆195	◆195	78	◆204	◆204	60	◆201	◆201	306
	Chicago, Burlington & Quincy R. R.										
3253	Kings	Ill.	◆227	◆227	3						
3254	Holcomb	Ill.	◆227	◆227	3						
3255	Davis Junction	Ill.	◆227	◆227	3						
3256	New Milford	Ill.	◆232	◆232	3						
3257	Camp Grant	Ill.	◆232	◆232	3						
3258	Rockford	Ill.	◆232	◆232	3						

	Chicago, Burlington & Quincy R. R.										
3253	Kings	Ill.	◆227	◆227	3						
3254	Holcomb	Ill.	◆227	◆227	3						
3255	Davis Junction	Ill.	◆227	◆227	3						
3256	New Milford	Ill.	◆232	◆232	3						
3257	Camp Grant	Ill.	◆232	◆232	3						
3258	Rockford	Ill.	◆232	◆232	3						
	Chicago Great Western R. R.										
4602	St. Charles	Ill.	◆195	◆195	209	◆204	◆204	356	◆201	◆201	356
4604	Wasco	Ill.	195	195	209	◆204	◆204	356	◆201	◆201	356
4605	Lily Lake	Ill.	195	195	209	◆204	◆204	356	◆201	◆201	356
4607	Richardson	Ill.	195	195	209	◆204	◆204	356	◆201	◆201	356
4609	Sycamore	Ill.	◆195	◆195	209	◆204	◆204	356	◆201	◆201	356
4610	De Kalb	Ill.	◆195	◆195	209	◆204	◆204	356	◆201	◆201	356

b–Plus 385 cents per car on shipments for the St. Charles School for Boys.

e–Applies only from stations and mines on Southern Ry. Rate of 222 cents per ton of 2,000 pounds will apply from stations and mines on the A. W. & W. Ry.

f–Applies only from stations and mines on Southern Ry. Rate of ◆237 cents per ton of 2,000 pounds will apply from stations and mines on the A. W. & W. Ry.

For explanation of Abbreviations and other Reference Marks, see page 1 of Tariff, page 4 of Supplement No. 8, page 2 of Supplement No. 15, page 3 of Supplement No. 29 and page 2 of Supplement No. 31.

For explanation of Route Numbers, see pages 215 to 243, inclusive, of Tariff, as amended.

(Amends and cancels rates in Tariff, to corresponding Index Nos., except as otherwise provided.)

RATES ON BITUMINOUS COAL, CARLOADS—Continued.

FROM STATIONS AND MINES IN ILLINOIS AND INDIANA (As Specified on Page A-5 of Tariff, as amended).

IN CENTS PER TON OF 2,000 POUNDS

Index No.	TO		FROM GROUP 1 Rates A (See Item 5)	FROM GROUP 1 Rates B (See Item 5)	FROM GROUP 1 Route No.	FROM GROUP 2 Rates A (See Item 5)	FROM GROUP 2 Rates B (See Item 5)	FROM GROUP 2 Route No.	FROM GROUP 3 Rates A (See Item 5)	FROM GROUP 3 Rates B (See Item 5)	FROM GROUP 3 Route No.
	Chicago Great Western R. R. —Concluded.										
4611	Five Points	Ill.	◆205	◆205	209	◆204	◆204	356	◆201	◆201	356
4612	Wilkinson	Ill.	◆205	◆205	209	◆204	◆204	356	◆201	◆201	356
4613	Clare	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4614	Esmond	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4615	Lindenwood	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4616	Holcomb	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4617	Stillman Valley	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4618	Byron	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4619	Myrtle	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4620	Egan	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4621	German Valley	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
4622	South Freeport	Ill.	◆210	◆210	209	◆222	◆222	356	◆219	◆219	356
	Chicago, Milwaukee, St. Paul and Pacific R. R.										
5037	Davis Junction	Ill.	◆210	◆210	39	◆215	◆215	31, 299	◆212	◆212	31, 299
5038	Stillman Valley	Ill.	◆210	◆210	39	◆215	◆215	31, 299	◆212	◆212	31, 299
5039	Byron	Ill.	◆210	◆210	39	◆215	◆215	31, 299	◆212	◆212	31, 299
a5040	Leaf River	Ill.	210	210	39	◆215	◆215	31, 299	◆212	◆212	31, 299
a5041	Adeline	Ill.	210	210	39	◆215	◆215	31, 299	◆212	◆212	31, 299
5042	Forreston	Ill.	◆220	◆220	39	◆215	◆215	31, 299	◆212	◆212	31, 299
5043	Harper	Ill.	◆220	◆220	39	◆215	◆215	31, 299	◆212	◆212	31, 299
5044	Lanark	Ill.	◆220	◆220	39	◆215	◆215	31, 299	◆212	◆212	31, 299
5045	Fay	Ill.	◆220	◆220	39	◆215	◆215	31, 299	◆212	◆212	31, 299
5067	De Kalb	Ill.				◆204	◆204	326	◆201	◆201	326
5081	Camp Grant	Ill.	◆215	◆215	39	◆227	◆227	31, 299	◆224	◆224	31, 299
5082	Holcomb	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5083	Kings	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5084	Flag Center	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5085	Rochelle	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5086	Steward Junction	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5087	Scarboro	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5088	Roxbury	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5089	Welland	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5090	Mendota	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5091	Peterstown	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5092	Fitchmoor	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5093	Ladd	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5094	Cherry	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5095	Seatonville	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5096	Howe	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5097	Depue	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5098	Moronts	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5099	Granville	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5100	Standard	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5101	Cedar Point	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299
5102	Oglesby	Ill.	◆210	◆210	39	◆222	◆222	31, 299	◆219	◆219	31, 299

a—Also amends page 5 of Supplement No. 29

For explanation of Abbreviations and other Reference Marks see page 1 of Tariff, page 4 of Supplement No. 8, page 2 of Supplement No. 15, page 3 of Supplement No. 29 and page 2 of Supplement No.

For explanation of Route Numbers, see pages 215 to 243, inclusive, of Tariff, as amended.

(Amends and cancels rates in Tariff, to corresponding Index Nos.)

RATES ON BITUMINOUS COAL, CARLOADS—Concluded.

FROM STATIONS AND MINES IN ILLINOIS AND INDIANA (As Specified on Page A-5 of Tariff, as amended).

IN CENTS PER TON OF 2,000 POUNDS

Index No.	TO	FROM GROUP 1 Rates A (See Item 5)	GROUP 1 Rates B (See Item 5)	GROUP 1 Route No.	GROUP 2 Rates A (See Item 5)	GROUP 2 Rates B (See Item 5)	GROUP 2 Route No.	GROUP 3 Rates A (See Item 5)	GROUP 3 Rates B (See Item 5)	GROUP 3 Route No.
	Chicago, Milwaukee, St. Paul and Pacific R. R.—Concluded									
5122	Rockton Ill.	◆230	◆230	39	◆227	◆227	359	◆*b*224	◆*b*224	359
5123	Roscoe Siding Ill.	◆230	◆230	39	◆227	◆227	359	◆*b*224	◆*b*224	359
5124	Latham Park Ill.	◆230	◆230	39	◆227	◆227	359	◆*b*224	◆*b*224	359
5125	Rockford Ill.	◆215	◆215	39	◆227	◆227	31, 299	◆*b*224	◆*b*224	31, 299
5126	Shirland Ill.	◆230	◆230	39	◆232	◆232	31, 299	◆229	◆229	31, 299
5127	Durand Ill.	◆230	◆230	39	◆232	◆232	31, 299	◆229	◆229	31, 299
5128	Davis Ill.	◆230	◆230	39	◆232	◆232	31, 299	◆229	◆229	31, 299
5129	Rock City Ill.	◆230	◆230	39	◆232	◆232	31, 299	◆229	◆229	31, 299
5130	Dakota Ill.	◆230	◆230	39	◆232	◆232	31, 299	◆229	◆229	31, 299
5131	Freeport Ill.	◆215	◆215	39	◆227	◆227	31, 299	◆224	◆224	31, 299
5132	Florence Ill.	◆215	◆215	39	◆227	◆227	31, 299	◆224	◆224	31, 299
5133	Shannon Ill.	◆215	◆215	39	◆227	◆227	31, 299	◆224	◆224	31, 299
	Illinois Central R. R.									
9830	Hart Ill.	◆215	◆215	54	◆217	◆217	33	◆214	◆214	33
9831	Colvin Park Ill.	◆215	◆215	54	◆217	◆217	33	◆214	◆214	33
9832	Irene Ill.	◆215	◆215	54	◆217	◆217	33	◆214	◆214	33
9833	Perryville Ill.	◆215	◆215	54	◆217	◆217	33	◆214	◆214	33
9834	Rockford Ill.	◆215	◆215	54	◆227	◆227	33	◆224	◆224	33
9835	Alworth Ill.	◆215	◆215	54	◆227	◆227	33	◆224	◆224	33
9836	Seward Ill.	◆215	◆215	54	◆227	◆227	33	◆224	◆224	33
9837	Evarts Ill.	◆215	◆215	54	◆227	◆227	33	◆224	◆224	33
9838	Freeport Ill.	◆215	◆215	54	◆227	◆227	33	◆224	◆224	33
9840	Baileyville Ill.	◆215	◆215	54	◆227	◆227	33	◆224	◆224	33
9841	Thurston Ill.	◆210	◆210	54	◆222	◆222	33	◆219	◆219	33
9842	Haldane Ill.	◆210	◆210	54	◆222	◆222	33	◆219	◆219	33
9843	Polo Ill.	◆210	◆210	54	◆222	◆222	33	◆219	◆219	33
9844	Woosung Ill.	◆210	◆210	54	◆222	◆222	33	◆219	◆219	33
9845	North Dixon Ill.	◆195	◆195	54	◆209	◆209	33	◆206	◆206	33
9846	Dixon Ill.	◆195	◆195	54	◆209	◆209	33	◆206	◆206	33
9847	Eldena Ill.	◆195	◆195	54	◆209	◆209	33	◆206	◆206	33
9848	Amboy Ill.	◆195	◆195	54	◆209	◆209	33	◆206	◆206	33

b—Applies only from stations and mines on the Southern Ry. Rate of ◆242 cents per ton of 2,000 pounds will apply from stations and mines on the A. W. & W. Ry.

For explanation of Abbreviations and other Reference Marks, see page 1 of Tariff, page 4 of Supplement No. 8, page 2 of Supplement No. 15, page 3 of Supplement No. 29 and page 2 of Supplement No. 31.

For explanation of Route Numbers, see pages 215 to 243, inclusive, of Tariff, as amended.

[fol. 2908] PETITIONERS' EXHIBIT No. 9

Order

Interstate Commerce Commission

Investigation and Suspension Docket No. 5139

Coal to Beloit, Wis., and Northern Illinois

No. 28881

Bituminous Coal Rates within Illinois

In the matter of postponing the effective date of order of July 9, 1945, in view of suits brought to set aside the same and in order to permit assembling of three-judge court for final hearing.

Present: Claude R. Porter, to whom the above-entitled matter has been assigned for action thereon.

Upon further consideration of the record in the above-entitled proceedings and of the request of plaintiffs' counsel in suits brought by Ayrshire Collieries Corporation et al., and Chicago, Milwaukee, St. Paul & Pacific Railroad Company, respectively, in the United States District Court for the Southern District of Indiana, to set aside said order, and in order to permit the assembling of a three-judge court for final hearing of said suits during the week of March 25, 1946, and good cause appearing therefor:

It is ordered, That the order entered in Investigation and Suspension Docket No. 5139 on July 9, 1945, to become effective November 16, 1945, upon notice as therein specified, since modified to become effective February 8, 1946, upon the same notice, be, and it is hereby, further modified so that it will become effective April 8, 1946, in lieu of February 8, 1946, upon like notice.

It is further ordered, That the order entered in No. 28881 on November 13, 1945, to become effective January 21, 1946, upon 30 days' notice, since modified to become effective February 8, 1946, upon the same notice, be, and it is hereby, modified so that it will become effective April 8, 1946, in lieu of February 8, 1946, upon like notice.

Dated at Washington, D. C., this 29th day of December, 1945.

By the Commission, Commissioner Porter.

W. P. Bartel, Secretary. (Seal)

A true copy: W. P. Bartel, Secretary of the Interstate Commerce Commission.

[fol. 2909] Petitioners' Exhibit No. 10

Order

Interstate Commerce Commission

Investigation and Suspension Docket No. 5139

Coal to Beloit, Wis., and Northern Illinois

No. 28881

Bituminous Coal Rates within Illinois

In the matter of postponing the effective date of order of July 9, 1945, in I. & S. No. 5139, and order of November 13, 1945, in No. 28881, in order to avoid necessity of preparing and filing tariffs by carriers prior to determination of pending Court case.

Present: Claude R. Porter, Commissioner, to whom the above matter has been assigned for action thereon.

Upon consideration of the record in the above entitled proceedings and of the request of plaintiff's counsel in suit of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, now pending in the United States District Court for the Southern District of Indiana praying that the order in I. & S. 5139 be set aside, and in order to avoid the necessity of the carriers subject to the orders in the two proceedings above-named preparing and filing tariffs prior to the determination of suits affecting said order, and good cause appearing therefor:

It is ordered, That the order entered in I. & S. Docket No. 5139 on July 9, 1945, to become effective November 16, 1945, upon notice as specified therein, since modified to become effective April 8, 1946, upon the same notice, be, and it is hereby, further modified so that it will become

effective May 8, 1946, upon thirty days' notice, said order to remain otherwise in full force and effect.

It is further ordered, That the order entered in No. 28881, on November 13, 1945, to become effective January 21, 1946, upon thirty days' notice, since modified to become effective April 8, 1946, upon the same notice be, and it is hereby, further modified so that it will become effective May 8, 1946, upon thirty days' notice, said order to remain otherwise in full force and effect.

Dated at Washington, D. C., this 28th day of February, 1946.

By the Commission, Commissioner Porter.

W. P. Bartel, Secretary. (Seal)

A true copy: W. P. Bartel, Secretary of the Interstate Commerce Commission.

[fol. 2910] Petitioners' Exhibit No. 11

Order

Interstate Commerce Commission
Investigation and Suspension Docket No. 5139
Coal to Beloit, Wis., and Northern Illinois

No. 28881

Bituminous Coal Rates within Illinois

In the matter of postponing the effective date of the order of July 9, 1945, in I. & S. No. 5139, and order of November 13, 1945, in No. 28881, in order to avoid necessity of carriers, filing tariffs prior to determination of pending Court cases.

Present: George M. Barnard, Chairman, to whom the above matter has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceedings and of the request of plaintiff's counsel in suit of Chicago, Milwaukee, St. Paul and Pacific Railroad Company and of counsel in the suit of Ayreshire Colleries Corp., both now pending in the United States District Court for the Southern District of Indiana praying that the order in I. & S. No. 5139 be set aside, and in order to avoid the nec-

essity of the carriers subject to the order in the two proceedings above-named preparing and filing tariffs prior to the determination of suits affecting said order, and it appearing that because of illness the Court will not be able to assemble to hear said cases at the time originally set, and good cause appearing therefor:

It is ordered, That the order entered in I. & S. Docket No. 5139 on July 9, 1945, to become effective November 16, 1945, upon notice as specified therein, since modified to become effective May 8, 1946, upon 30 days' notice, be, and it is hereby, further modified so that it will become effective July 8, 1946, upon 30 days' notice, said order to remain otherwise in full force and effect.

It is further ordered, That the order entered in No. 28881 on November 13, 1945, to become effective January 21, 1946, upon 30 days' notice, since modified to become effective May 8, 1946, upon 30 days' notice, be, and it is hereby, further modified so that it will become effective July 8, 1946, upon 30 days' notice, said order to remain otherwise in full force and effect.

Dated at Washington, D. C., this 21st day of March, 1946.

By the Commission, Chairman Barnard.

W. P. Bartel, Secretary. (Seal)

A true copy: W. P. Bartel, Secretary of the Interstate Commerce Commission.

[fol. 2911] In the Supreme Court of the United States,

October Term, A. D. 1946

No. 467

Statement of Points to be Relied Upon and Designation of the Parts of the Record to be Printed—Filed September 16, 1946

Come now Ayrshire Collieries Corporation, et al., and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, appellants in the above entitled causes, and state the points upon which they intend to rely in this Court are as follows:

1. Two members of a statutory three-judge court convened to hear and determine an application to enjoin or

set aside an order of the Interstate Commerce Commission cannot determine such case when the third member of such court is unable to participate in the determination.

2. The order of the Commission requiring the carriers to remove unjust discrimination in the present rates from [fol. 2912] certain origins in Indiana is not supported by findings of fact or by evidence.

3. The order of the Commission requiring the carriers to remove undue preference and prejudice in the present rates from certain origins in Indiana is not supported by findings of fact or by evidence.

4. The order of the Commission requiring the carriers to remove unjust discrimination and undue preference and prejudice in the present rates from certain points in Indiana to destinations in Illinois was beyond the jurisdiction and authority of the Commission in the proceeding before it.

5. The decision and order of the Commission is arbitrary and capricious and beyond the power of the Commission.

6. The Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the Southern Railway Company had the right to initiate and maintain such rates as those carriers deemed proper until such time as the Commission found, after full hearing, on the basis of substantial evidence, that such rates violated one or more provisions of the Interstate Commerce Act and made such finding in a proceeding instituted by an order of the Commission for an investigation and hearing concerning the lawfulness of such rates.

7. The report of the Commission contains no finding of fact to support the conclusion that the rates approved in said report to Rockford, Freeport or other destinations in northern Illinois, are reasonable, non-discriminatory and non-preferential and non-prejudicial.

8. The Commission has no authority or jurisdiction to require a change in the rates from the Boonville group in [fol. 2913] Indiana, or to approve rates for future application from that group, in the absence of findings of fact supported by evidence that the present or proposed rates

therefrom violate some provision of the Interstate Commerce Act.

9. The Commission had no authority to approve rates or rate relationships from a number of origin groups to a number of individual destinations, where such rates vary at the different destinations, and the relationships of the rates from such origin groups vary at such destinations, on the basis of the average of the rates from each group to all of the destinations.

The appellant, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, states that it will rely upon the following points, in addition to the foregoing:

1. The Court erred in failing to hold that a railroad has the right to initiate rates within a zone of reasonableness in order to meet competitive conditions and thus retain traffic it has enjoyed for many years.

2. The Court erred in refusing to set aside the Commission's report which contains no essential or appropriate findings that the rates proposed by appellant railroad and required by the Commission to be cancelled are unreasonable or otherwise unlawful.

3. The rates of a railroad can be condemned as discriminatory, prejudicial or preferential only when the carrier has effective control over the rate from the prejudiced point as well as from the preferred point, and the carrier must be given an alternative when required to remove discrimination, and the Court erred in failing and refusing to set aside the order which gave the appellant railroad no alternative.

[fol. 2914] II

Appellants further state that only the following parts of the record as filed in this Court are deemed necessary to be printed for the consideration of the points set forth above:

1. Petition of Ayrshire Collieries Corporation, et al., in Case No. 1072, omitting exhibits.

2. Petition of Chicago, Milwaukee, St. Paul and Pacific Railroad Company in Case No. 1076, omitting exhibits.

3. Designation of Honorable Evan A. Evans and Honorable Michael L. Igoe as Judges in Case No. 1072.

4. Proof of notice to Attorney General for the United States of America and the Interstate Commerce Commission of filing of petition in Case No. 1072.

5. Order entered January 3, 1946, in Case No. 1072 assigning the same for final hearing on March 25, 1946.

6. Designation of Honorable Evan A. Evans and Honorable Michael L. Igoe as Judges in Case No. 1076.

7. Proof of notice to Attorney General for the United States of America and to the Interstate Commerce Commission of filing of petition in Case No. 1076.

8. Order entered January 3, 1946 in Case No. 1076 assigning the same for final hearing on March 25, 1946.

9. Orders entered January 3, 1946, consolidating Cases Nos. 1072 and 1076 for all purposes.

10. Answers of United States of America in both cases.

11. Motions and petitions of Kentucky Coal Agency, Inc. to intervene as a defendant and orders permitting such intervention in both cases.

12. Motions and petitions of Railroad Commission of Kentucky to intervene as a defendant and orders granting [fol. 2915] such intervention in both cases.

13. Motions and petitions of The Alton Railroad Company (Henry A. Gardner, Trustee), et al., to intervene as defendants and orders granting such intervention in both cases.

14. Orders granting Interstate Commerce Commission leave to intervene as a defendant in both cases.

15. Answers of Interstate Commerce Commission as an intervening defendant in both cases.

16. Motions and petitions of Central Illinois District Coal Traffic Bureau and Illinois Coal Traffic Bureau to intervene as parties defendant and order granting such intervention in both cases.

17. Orders entered March 21, 1946 in both cases, reassigning the same for trial on April 22, 1946.

18. Motions and petitions of Tecumseh Coal Company, et al., to intervene as defendants and orders granting such intervention in both cases.

19. Answers of Railroad Commission of Kentucky and Kentucky Coal Agency, Inc., intervening defendants, in both cases.

20. Motions and petitions of Belleville Fuels, Inc. and Fifth and Ninth Districts Coal Traffic Bureau to intervene

as parties defendant and order granting such intervention in both cases.

21. Designation of Honorable J. Earl Major, United States Circuit Judge, to sit as District Judge in both cases.

22. Submission for final hearing in both cases on April 22, 1946 before three-judge Court.

23. Findings of fact and conclusions of law and judgment entry of June 5, 1946, in both cases.

[fol. 2916] 24. Petition for appeal.

25. Assignment of errors.

26. Statement as to jurisdiction on appeal.

27. Order allowing appeal.

28. Appeal bonds.

29. Citation on appeal.

30. Notice to Attorney General of the State of Indiana.

31. Notice of appeal.

32. Notice under Rule 12 of the Rules of the Supreme Court.

33. Proof of service of citation on appeal.

34. Proof of service of notice of appeal and notice under Rule 12 of the Rules of the Supreme Court.

35. Praecipe for transcript of record.

36. Proof of service of notice of filing praecipe for transcript of record.

37. Praecipe designating additional portions of the record to be included in record on appeal filed by appellees, United States of America and Interstate Commerce Commission.

38. The following portion of the record of proceedings before the Interstate Commerce Commission in I. & S. Docket No. 5139, included in petitioners' Exhibits Nos. 1, 4, 5, 6 and 7 in the District Court:

(a) Included in Exhibit No. 1:

(1) Protest and request for suspension of coal Trade Association of Indiana, dated July 14, 1942.

(2) Order of Interstate Commerce Commission, dated July 30, 1942, suspending certain tariffs.

(3) Petition on behalf of Illinois Railroads dated August 12, 1942, filed with Interstate Commerce Commission [fol. 2917] August 15, 1942.

(4) Order of Interstate Commerce Commission in Docket No. 28881, dated September 9, 1942.

(5) Petition of Railroad Commission of Kentucky to intervene in I. & S. Docket No. 5139.

(6) Petition of Kentucky Coal Agency, Inc. to intervene in I. & S. Docket No. 5139.

(7) Report and order of Interstate Commerce Commission issued July 9, 1945.

(8) Order of Interstate Commerce Commission of October 5, 1945, extending effective date of order of July 9, 1945, to December 20, 1945.

(9) Order of Interstate Commerce Commission dated November 13, 1945, denying petitions for reconsideration filed by Coal Trade Association of Indiana and Chicago, Milwaukee, St. Paul and Pacific Railroad Company and extending effective date of order of July 9, 1945, to January 21, 1946.

(10) Order of Interstate Commerce Commission, dated December 6, 1945, extending effective date of order of July 9, 1945, to February 8, 1946.

(b) Included in Exhibits Nos. 4, 5, 6 and 7:

(1) The following pages of the transcript of testimony before the Commission:

Page 1 to page 5, inclusive;
Page 8 to and including line 20 on page 10;
Line 8, page 13, to and including line 10, page 15;
Line 20, page 18, to and including line 16, page 40;
Line 22, page 41, to and including line 24, page 47;
Line 2, page 51, to and including page 67;
[fol. 2918] Line 21, page 72, to and including line 10, page 89;
Line 3, page 92, to and including line 7, page 97;
Line 25, page 97, to and including page 98;
Line 10, page 99, to and including line 19, page 105;
Line 5, page 107, to and including line 21, page 107;
Line 25, page 109, to and including line 4, page 111;
Line 7, page 112, to and including line 11, page 112;
Line 21, page 116, to and including line 8, page 121;
Page 123 to and including line 1, page 135;
Line 7, page 136, to and including line 15, page 137;
Line 16, page 138, to and including page 139;
Line 4, page 141, to and including line 14, page 144;
Line 14, page 145, to and including line 13, page 161;

Line 18, page 163, to and including line 9, page 178;
Line 9, page 230, to and including line 19, page 252;
Page 256 to and including line 1, page 263;
Line 19, page 264, to and including line 14, page 280;
Line 23, page 344, to and including line 6, page 361;
Line 6, page 365, to and including page 366;
Line 13, page 370, to and including page 384;
Page 386 to and including line 22, page 388;
Line 18, page 390, to and including line 21, page 443;
Line 22, page 445, to and including line 15, page 449;
Line 6, page 451, to and including line 7, page 456;
Line 17, page 458, to and including page 480;
Page 482 to page 507, inclusive;
Line 3, page 509, to and including line 13, page 583;
Line 4, page 674, to and including line 23, page 703;
Line 16, page 705, to and including line 4, page 716;
Line 18, page 756, to and including line 3, page 889;
Page 891 to page 895, inclusive;
Line 5, page 912, to and including line 10, page 954;
Line 11, page 968, to and including page 1016;
[fol. 2919] Page 1018 to and including line 7, page 1076;
Line 3, page 1082, to and including line 10, page 1272;
Page 1308 to and including line 20, page 1371;
Page 1381 to page 1561, inclusive;
Line 25, page 1563, to and including page 1575;
Page 1576 to and including line 7, page 1674;
Page 1678 to and including line 14, page 1686;
Page 1689 to and including line 24, page 1705;
Line 2, page 1708, to and including line 10, page 1712;
Line 22, page 1713, to and including line 7, page 1726;
Line 21, page 1728, to and including line 2, page 1735;
Line 6, page 1736, to and including page 1765;
Line 25, page 1766, to and including line 23, page 1768;
Line 7, page 1770, to and including line 20, page 1842;
Line 25, page 1845, to and including page 1889;
Line 18, page 1891, to and including line 19, page 1892;
Page 1894 to and including line 22, page 1900;
Line 21, page 1902, to and including line 2, page 1920;
Line 24, page 1922, to and including line 4, page 1938;
Line 21, page 1940, to and including line 2, page 1999;
Line 17, page 2001, to and including page 2007;

[fol. 2920] Line 21, page 2011, to and including line 12, page 2038;

Page 2040 to and including line 12, page 2049;
Line 2, page 2051, to and including line 2, page 2052;
Line 9, page 2128 to and including page 2145;
Line 17, page 2162, to and including line 3, page 2171;
Page 2174 to and including line 21, page 2217;
Line 6, page 2220, to and including line 12, page 2223;
Line 9, page 2226 to and including page 2252;
Line 16, page 2253, to and including line 18, page 2287;
Line 18, page 2373, to and including line 19, page 2377;
Page 2380 to and including line 17, page 2455;
Page 2457 to and including line 9, page 2459;
Line 15, page 2461, to and including line 1, page 2467;
Page 2469 to and including line 4, page 2470;
Line 9, page 2476, to and including line 9, page 2510;
Line 16, page 2511, to and including page 2527;
Line 4, page 2534, to and including page 2577;
Page 2631 to page 2641, inclusive;
Line 7, page 2644, to and including page 2655;
Line 1, page 2657, to and including line 18, page 2657;
Line 3, page 2659, to and including line 10, page 2679;
[fol. 2921] Line 20, page 2697, to and including line 2, page 2700;
Line 9, page 2701, to and including line 18, page 2702;
Line 2, page 2705, to and including line 3, page 2852;
Line 18, page 2857, to and including line 27, page 2857.

(2) The following Exhibits introduced in evidence before the Commission: Exhibits Nos. 1, 2, 3, 3-A, 4, 4-A, 5, 6, 8 to 74, inclusive, 76 to 91, inclusive, 97 to 103, inclusive, and 106 to 118, inclusive.

39. All of the documents included in petitioners' Exhibits Nos. 8, 9, 10 and 11 in the District Court.

Dated September 14, 1946.

Earl B. Wilkinson, Orehart & Hay, Attorneys for Appellants, Ayrshire Collieries Corporation, et al.; Carson L. Taylor, William L. Hunter, Attorneys for Appellant, Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

[fol 2922] Due service and receipt of a copy of the foregoing statement of points to be relied upon and designation

of the parts of the record to be printed is hereby acknowledged this 16th day of September, 1946.

David O. Mathews, for United States of America; Nelson Thomas, Attorney for Interstate Commerce Commission; Erle J. Zoll, Jr., Attorney for The Alton Railroad Company (Henry A. Gardner, Trustee), and other intervening railroads; Charles W. Stadell, Attorney for Central Illinois District Coal Traffic Bureau and Illinois Coal Traffic Bureau; J. C. Marks, Attorney for Kentucky Coal Agency, Inc.

[fol. 2923] [File endorsement omitted.]

[fol. 2924] IN THE SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1946

No. 467

DESIGNATION OF ADDITIONAL PORTIONS OF THE RECORD TO BE PRINTED—Filed September 25, 1946

The United States of America and Interstate Commerce Commission, appellees in the above-styled consolidated case, designate for printing, in addition to the portions of the record heretofore designated by appellants for printing, but without duplication, the following:

The entire record before the District Court, including pleadings and all evidence, including the complete record before the Interstate Commerce Commission, including exhibits received in evidence before the Commission.

[fol. 2925] This 24th day of September, 1946.

J. Howard McGrath, Solicitor General; Daniel W. Knowlton, Chief Counsel, Interstate Commerce Commission.

[fol. 2926] [File endorsement omitted.]

[fol. 2926-A] SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1946.

No. 467

ORDER NOTING PROBABLE JURISDICTION—October 21, 1946.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

[fol. 2927] IN THE SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, A. D. 1946

STIPULATION AS TO PRINTED RECORD—Filed November 27, 1946.

It is hereby stipulated and agreed by and between the interested parties to the above entitled appeals, by their respective counsel, that in order to avoid the printing of exhibits of voluminous size and unwieldy dimensions contained in the record of the proceedings before the Interstate Commerce Commission, which constitutes a part of the record on appeal in the above entitled cases, the following described exhibits, designated as necessary for a consideration of the points involved in these appeals, need not be included in the printed record on appeal, but in lieu thereof this stipulation, which contains an accurate description of the nature and contents of each of said exhibits, shall be [fol. 2928] printed in the record:

Exhibit No. 1:

This exhibit is a map of the State of Illinois and parts of the States of Indiana and Kentucky, on which are outlined the coal mining origin groups in Illinois, Indiana and western Kentucky.

Exhibit No. 2:

This exhibit is a map of parts of the States of Indiana, Illinois, Iowa and Wisconsin, on which is outlined the destination territory involved in the proceedings before the Commission. Within the outlined territory are shown the existing and suspended rates from the Southern Illinois group to 12 representative destinations. The map also shows the present rates from the Southern Illinois group to 14 representative comparative points outside the outlined destination territory.

Exhibit No. 3:

This exhibit is divided into five sections, the contents of which are as follows:

Section I is a list of 12 representative destinations and the names of the railroads upon which they are located.

Section II is a list of the tariff coal origin groups and stations in Illinois (except the Northern Illinois district), Indiana and western Kentucky.

Section III is a statement indicating the number of times each origin point was used more than once in computing distances to each representative suspended and comparative destination.

[fol. 2929] Section IV is a statement of the average distance via short tariff routes from the Northern Illinois coal mining district to each representative suspended and comparative destination.

Section V is a statement of the average distance via short tariff routes from origin coal mining groups and stations in Illinois (except Northern Illinois), Indiana and western Kentucky to representative suspended and comparative destinations.

Exhibit 3-A:

This exhibit is a statement of certain corrections to be made in Exhibit No. 3.

Exhibit No. 4:

This exhibit is divided into eleven sections, the contents of which are as follows:

Section I is a statement of the history of the rates on bituminous coal from origin groups in Illinois, Indiana and western Kentucky to Beloit, Wisconsin, Chicago, Dixon,

Freeport and Rockford, Illinois, from January 1, 1910 (except as noted).

Section II is a statement showing the history of the rates on bituminous coal from origin groups in Illinois, Indiana and western Kentucky to Amboy, Apple River, Belvidere, Byron, DeKalb, Forreston, Geneva, Moline, Rock Island, Polo, Rochelle, Savanna and Sterling, Illinois, Burlington, Ft. Atkinson, Janesville, Lake Mills and Madison, Wisconsin, and Clinton, Davenport and Dubuque, Iowa, from August 1, 1930 (except as noted).

[fol. 2930] Section III is a statement showing distances via the shortest and longest (together with average) of the short tariff routes, the Holmes & Hallowell scale rates with percentages the proposed rates are of the Holmes & Hallowell scale rates and ton mile earnings from all origin groups in Illinois (except Northern Illinois), Indiana and western Kentucky to representative suspended destinations.

Section IV is a statement showing similar information as covered in Section III to the representative comparative destinations.

Section V is a statement showing similar information as covered in Section III from the mines in the Northern Illinois district to the representative suspended destinations.

Section VI is a statement showing similar information as covered in Section III from the mines in the Northern Illinois district to the representative comparative destinations.

Section VII is a consolidated statement showing similar information as covered in Section III from the Southern Illinois origin groups to all the representative suspended and comparative destinations.

Section VIII is a statement of the tonnage of the bituminous coal and revenue derived therefrom for the year 1941 and the first six months of 1942 from Illinois, Indiana and western Kentucky origins to representative destinations shown therein.

Section IX is a statement of tonnage of bituminous coal from mines in Illinois, Indiana and western Kentucky and eastern fields to Chicago, Illinois, Chicago District, [fol. 2931] Buffington, Gary, East Gary and South Gary, Indiana, for the years 1927 to 1941, both inclusive.

Section X is a statement showing reference to orders of the Interstate Commerce Commission in which rates to certain representative comparative destinations shown in Exhibit No. 3 have been prescribed or approved.

Section XI is a statement showing the anticipated revenue loss if rates to representative comparative destinations in southern Wisconsin were reduced to the same percentage of the Holmes & Hallowell scale rates that the present rates from Southern Illinois to Rockford, Illinois, are of the Holmes & Hallowell scale rates.

Exhibit 4-A:

This exhibit is a statement of certain corrections to be made in Exhibit No. 4.

Exhibit No. 5:

This exhibit is a statement of bituminous coal tonnage revenue for the year 1941 from mines in Illinois, Indiana and western Kentucky to representative suspended destinations in Illinois via intrastate and interstate routes, showing the increased annual revenue to representative suspended Illinois destinations, based on 1941 tonnage, if the suspended rates become effective, and showing the possible annual revenue loss if the rates to Beloit, Wisconsin, were reduced.

Exhibit No. 6:

This exhibit is a map of the State of Illinois and parts of the States of Indiana and Wisconsin, showing in [fol. 2932] different colors the principal routes of movement of coal from the Southern Illinois origin group to the representative suspended and comparative destinations.

Exhibit No. 8:

This exhibit is a statement showing the production and disposition of coal in net tons at mines in Northern Illinois having a railroad connection during the years 1937 to 1941, both inclusive.

Exhibit No. 9:

This exhibit is a statement showing the production and disposition of coal in net tons at mines shipping by rail, located in Fulton and Peoria Counties and at Victoria,

Alpha, Rushville and Atkinson, Illinois, during the years 1932 to 1941, both inclusive.

Exhibit No. 10:

This exhibit is a statement showing by years the number of net tons of bituminous coal shipped from mines in Illinois, Indiana and western Kentucky for the 10-year period January 1, 1932, to December 31, 1941, to various destinations in the States of Illinois, Iowa, Wisconsin, Missouri and Nebraska.

Exhibit No. 11:

This exhibit is a statement showing the average level of rates from all origin groups to representative suspended and comparative points, based on a recapitulation of the rates and distances shown in Exhibits Nos. 3 and 4, indicating the total rate, total distances, number of origins, average rate, average distance, the Holmes & Hallowell scale rate, and the percents the average present and suspended rates are of the Holmes & Hallowell scale rate.

[fol. 2933] Exhibit No. 12:

This exhibit contains the following:

1. A map of the State of Iowa and parts of the States of Illinois, Wisconsin and Minnesota, on which are shown the rate differentials between the Fulton County and Southern Illinois groups to Iowa and the representative destinations in Illinois, Minnesota and Wisconsin.

2. A statement of the rate differentials between the coal producing groups prescribed in I.C.C. Docket No. 26558, 232 I.C.C. 5.

3. A statement showing the maximum reasonable rates prescribed in I.C.C. Docket No. 26558 from the Fulton County and Southern Illinois districts to representative Iowa destinations; the differences in rates and distances Fulton County under Southern Illinois; and the Holmes & Hallowell and Midland Electric scale rates with the percents the prescribed rates are of those scale rates.

4. A statement showing the present and suspended rates from the Fulton County and Southern Illinois origin groups to representative suspended destinations in Illinois and representative comparative destinations in Illinois, Iowa and Wisconsin; the average distances via short tariff routes;

the differences in rates and distances Fulton County under Southern Illinois; and the Holmes & Hallowell, Midland Electric and I.C.C. Docket No. 23922 scale rates with percents the present and suspended rates are of those scale rates.

5. A statement showing the comparison of the proposed rates and average short tariff route distances from the [fol. 2934] Springfield, Illinois, and Brazil-Clinton, Indiana, groups to representative suspended Illinois destinations.

6. A statement showing a comparison of the rate and mileage differentials between the Brazil-Clinton and Linton-Sullivan, Indiana, origin groups.

7. A statement of articles taking Class "D" and Class "E" rating with column ratings prescribed by the Interstate Commerce Commission.

8. A statement showing the percentage relationship of the proposed bituminous coal rates to first class rates from selected coal origins in Illinois, Indiana and western Kentucky to suspended destinations in Illinois.

9. A statement showing the percentage relationship of the present bituminous coal rates to first class rates from selected coal origins in Illinois, Indiana and western Kentucky to comparative destinations in Illinois, Iowa and Wisconsin.

10. A statement showing the percentage relationship of bituminous coal rates to first class rates from the Inner Crescent group to representative destinations in Illinois.

11. A statement showing the percentage relationship of bituminous coal rates to first class rates from the Outer Crescent group to Wisconsin destinations.

12. A statement showing the minimum rates prescribed in 192 I.C.C. 413 on bituminous coal within Ohio and the percents such rates are of the Holmes & Hallowell scale rates.

[fol. 2935] 13. A statement showing the total production of bituminous coal in the United States for the years 1917 to 1941, inclusive, with a comparison of Illinois and Indiana production.

14. A list of manufacturing industries located at selected Illinois, Iowa and Wisconsin cities and the source of their fuel requirements.

Exhibit No. 13:

This exhibit is a statement showing various rate and distance scales prescribed by the Commission, including Ex Parte 115 increase but not including Ex Parte 148 increase.

Exhibit No. 14:

This exhibit is a statement showing the suspended rates on bituminous coal from Alpha, Victoria, Atkinson, Peoria, Rushville, Wilmington and Fulton County, Illinois districts to the representative suspended destinations; the average distance; and the Docket No. 19591 and Docket No. 23922 scale rates together with the percent the suspended rates are of those scale rates.

Exhibit No. 15:

This exhibit consists of a copy of Executive Order No. 9328, dated April 8, 1943, and a copy of President Roosevelt's statement upon the issuance of said Executive Order.

Exhibit No. 16:

This exhibit is a copy of the findings of the Public Service Commission of Wisconsin in the matter of investigation on motion of the Commission of intrastate freight rates charged by the railroad for the transportation of coal and [fol. 2936] coke within Wisconsin, Docket No. 2-R-633 and related cases, decided March 21, 1939.

Exhibit No. 17:

This exhibit contains the following:

1. A map of the States of Indiana and Illinois, showing the various mine groups that make up the Illinois-Indiana coal fields.

2. A map of the northern portion of the State of Illinois and the southern portion of the State of Wisconsin, showing the destination territory to which rates are under suspension.

3. A chronological statement of rates on coal from the Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Boonville groups to Beloit, Wisconsin, and Rockford, Illinois, with the rate differentials Linton over Brazil, Princeton over Linton, and Boonville over Princeton.

4. A statement of the present and suspended rates from the Linton-Sullivan and Princeton-Ayrshire groups to des-

tinations on the Chicago, Milwaukee, St. Paul & Pacific Railroad and the difference as between the Princeton and Linton groups.

5. A statement of the present and suspended rates from mines in the Linton-Sullivan and Princeton-Ayrshire groups to destinations on the Chicago & North Western Railway and the difference as between the Princeton and Linton groups.

6. A statement of the present and suspended rates from mines in the Linton-Sullivan and Princeton-Ayrshire groups to stations on the Illinois Central Railroad and the [fol. 2937] Chicago Great Western Railway and the difference as between the Princeton and Linton groups.

7. A statement of the present and suspended rates from the Linton-Sullivan and Princeton-Ayrshire groups to representative points in Wisconsin and Illinois, showing the rates published for account of the individual carriers serving the mine groups and the destination points.

8. A statement of the present and suspended rates from mines in the Southern Illinois and Princeton-Ayrshire groups to destinations on the Chicago, Milwaukee, St. Paul & Pacific Railroad and the differences between the Princeton and the Southern Illinois groups.

9. A statement of the present and suspended rates from mines in the Southern Illinois and Princeton-Ayrshire groups to stations on the Chicago & North Western Railway and the difference as between the Princeton and Southern Illinois groups.

10. A statement of the present and suspended rates on coal from mines in the Southern Illinois and Princeton-Ayrshire groups to stations on the Illinois Central Railroad and the Chicago Great Western Railway and the difference as between the Princeton and Southern Illinois groups.

11. A statement of the present and suspended rates from the Linton-Sullivan and Princeton-Ayrshire groups to representative destinations in Illinois and Wisconsin.

12. A chart showing the representative destinations in [fol. 2938] Wisconsin, Illinois and Iowa with the differentials Princeton over Linton.

13. A statement of the present rates from the Southern Illinois, Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Boonville groups to points in Illinois.

14. A statement of the present rates from the Southern Illinois, Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Boonville groups to points in Wisconsin.

15. A statement of the present rates from the Southern Illinois, Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Boonville groups to points in Iowa.

16. A chronological statement of rates from the Southern Illinois, Linton-Sullivan and Princeton-Ayrshire groups to Beloit, Wisconsin.

17. A chronological statement of rates from the Southern Illinois, Linton-Sullivan and Princeton-Ayrshire groups to Rockford, Illinois.

18. A chronological statement of rates from the Southern Illinois, Linton-Sullivan and Princeton-Ayrshire groups to Belvidere, Illinois.

19. A chronological statement of rates from the Southern Illinois, Linton-Sullivan and Princeton-Ayrshire groups to DeKalb, Illinois.

20. A chronological statement of rates from the Southern Illinois, Linton-Sullivan and Princeton-Ayrshire groups to Dixon, Illinois.

21. A chronological statement of rates from the Southern [fol. 2939] Illinois, Linton-Sullivan and Princeton-Ayrshire groups to Freeport, Illinois.

22. A chronological statement of rates from the Southern Illinois, Linton-Sullivan and Princeton-Ayrshire groups to St. Charles, Illinois.

23. A chronological statement of rates from the Southern Illinois, Linton-Sullivan and Princeton-Ayrshire groups to Sterling, Illinois.

24. A statement of the tariff authorities.

25. Excerpts from decisions of the Interstate Commerce Commission covering rates on coal in which it has been held that a group adjustment of long standing should not be disturbed.

Exhibit No. 18:

This exhibit is a diagram showing the various routes of movement of coal by the Chicago & Eastern Illinois Railroad Company from origins in Indiana and Illinois to Chicago, with the distances via such routes.

Exhibit No. 19:

This exhibit is a statement showing the number of miles of single and double track, whether the coal moved in solid trains or mixed with other freight, the number of break-up points, the maximum grades, the maximum curves, and engine rating of the locomotives used in the movement of coal by the Chicago & Eastern Illinois Railroad Company from certain destinations in Indiana and Illinois to Chicago, Illinois.

Exhibit No. 20:

This exhibit is a map of the State of Illinois and parts of the States of Indiana, Kentucky and Wisconsin, showing the [fol. 2940] boundaries and geographical location of each of the coal producing groups in Illinois, Indiana and western Kentucky and the location of the various representative and comparative destinations.

Exhibit No. 21:

This exhibit is a statement showing all destination points in the State of Illinois to which commodity rates on coal from mines in Illinois, Indiana and western Kentucky are under suspension, the origin and destination railroads over which such rates are published, together with present rates, the suspended rates and the amount of increase or decrease proposed by such suspended rates from the Southern Illinois rate group.

Exhibit No. 22:

This exhibit is a statement showing the name of each coal rate group in Illinois, Indiana and western Kentucky and the names of the railroads serving such groups; also the names of the railroads serving the points in northern Illinois to which changes are proposed in the present rates on coal from such groups as well as the names of the railroads serving representative comparative points.

Exhibit No. 23:

This exhibit is a statement showing the relative level of the present and suspended rates on bituminous coal as measured by the Midland Electric scale (232 I.C.C. 5) and the 23922 scale (190 I.C.C. 743) from Illinois, Indiana and western Kentucky to destinations in northern Illinois, southern Wisconsin, Davenport and Dubuque, Iowa.

Exhibit No. 24:

This exhibit is a statement showing the average ton [fol. 2941] mile earnings to representative destinations to which rates are under suspension; also to representative compared points from a composite of origin groups separated as between the Illinois groups, the Indiana groups, the western Kentucky group, the Indiana and western Kentucky groups combined, and the Illinois, Indiana and western Kentucky groups combined; likewise the percentage that the present and suspended rates are of the Midland Electric scale (Docket No. 26558) and the rates prescribed by the Commission in Docket No. 23922.

Exhibit No. 25:

This exhibit is a statement showing the average ton mile earnings to composite representative destinations to which rates are under suspension and representative compared points from composite origin groups separated as between the Illinois groups, the Indiana groups, the western Kentucky group, the Indiana and western Kentucky groups combined, and the Illinois, Indiana and western Kentucky groups combined; likewise the percentage that the present and suspended rates are of the Midland scale rate (Docket No. 26558, 252 I.C.C. 5).

Exhibit No. 26:

This exhibit is a graphic chart showing the comparative relative levels of the present and suspended rates on coal from the Illinois, Indiana and western Kentucky mines to 12 representative suspended points and the comparative relative levels of the present rates from such mines to 14 representative comparative points as measured by the ton mile earnings produced by such rates and the percentage such rates are of the Midland Electric scale (232 I.C.C. 5).

[fol. 2942] Exhibit No. 27:

This exhibit is a statement showing the tariff origin points located in the Southern Illinois, Springfield, Belleville, Danville, Centralia and DuQuoin origin groups and the distances via the shortest tariff routes from such origin points to representative suspended and comparative points; also a recapitulation of the rates and distances to representative suspended and comparative points from Alpha,

Victoria, Atkinson and Rushville, Illinois, and Northern Illinois, Fulton-Peoria, Southern Illinois, Springfield, Belleville, Danville, Centralia and DuQuoin groups.

Exhibit No. 28:

This exhibit is a statement showing the tariff origin points located in the Princeton-Ayrshire, Boonville, Linton-Sullivan, Brazil-Clinton and Evansville groups and points near Bedford, Indiana, and the distances via the shortest tariff routes from such points to representative suspended and comparative points.

Exhibit No. 29:

This exhibit is a statement showing the level of rates on coal from mines in Illinois and Indiana, based on shortest tariff route distances to 12 representative suspended points and 14 representative comparative points and the comparative relative levels of such rates as measured by the average ton mile earnings and the Midland Electric scale rates (232 I.C.C. 5).

Exhibit No. 30:

This exhibit is a series of 18 maps upon which are shown by means of colored lines extending from the mines or origin points in the Southern Illinois group to one or more of the representative suspended destinations the location [fol. 2943] of the present short tariff or shortest tariff routes from such mines or origins to such points and the location of suggested reasonable or practicable short tariff or shortest tariff routes.

Exhibit No. 31:

This exhibit is a statement showing the present rates on coal and the rates in effect on September 9, 1924, from the Southern Illinois group and the Wisconsin Lake Michigan docks to representative destinations in Wisconsin, the difference between the September 9, 1924, rates and the present rates and what the Southern Illinois group rates would be if based on the present rates from such docks plus the difference in effect on September 9, 1924.

Exhibit No. 32:

This exhibit is a statement showing the relative level of constructed freight rates on coal from mines in Illinois to

points in Wisconsin as compared with the Midland Electric scale rate and the Docket No. 23922 scale rate.

Exhibit No. 33:

This exhibit is a recapitulation of constructed rates from the Illinois groups to representative comparative points in the State of Wisconsin as shown in Exhibit No. 32 and of the present rates to representative comparative points in the States of Illinois and Iowa as shown on page 4 of Exhibit No. 24.

Exhibit No. 34:

This exhibit consists of the following:

1. A map of the State of Wisconsin and the northern [fol. 2944] Michigan peninsula showing the location of the various port cities on Lake Michigan and Lake Superior at which coal docks are located and certain representative points in Wisconsin.

2. Statements showing the rates on coal from Lake Michigan and Lake Superior docks to destinations in Wisconsin prior to May 1, 1939; the rates which became effective on May 1, 1939 and subsequent dates as a result of the order of the Public Service Commission of Wisconsin in Docket No. 2-R-633; the distances via tariff routes from such docks to representative destinations; and the percentage relationship that the present rates are of the 23922 scale rates.

Exhibit No. 35:

This exhibit is a statement showing average mileage over shortest tariff routes and the present large and fine coal rates from Lake Superior dock points to representative destinations in Minnesota and South Dakota.

Exhibit No. 36:

This exhibit is a statement showing the average mileage over the shortest tariff routes and the present large and fine coal rates from Lake Superior dock points to representative destinations in Iowa.

Exhibit No. 37:

This exhibit is a statement showing a recapitulation of the present rates on large and fine coal and the average distances over the shortest tariff routes from Lake Superior

docks to destinations in Minnesota and the percentage that such rates are of the Holmes & Hallowell scale rate.

[fol. 2945] Exhibit No. 38:

This exhibit is a statement showing a recapitulation of rates and distances shown in Exhibits Nos. 35 and 36 and the percentage relationship that such rates are of the Midland scale rate.

Exhibit No. 39:

This exhibit is a map on which is indicated the destination territory involved in the proceeding before the Interstate Commerce Commission and certain representative points in such territory.

Exhibit No. 40:

This exhibit is a statement showing the present and proposed rates from the Indiana and Illinois groups and the average rates from such groups to certain representative destinations.

Exhibit No. 41:

This exhibit is a statement showing the distances via short tariff routes from the Indiana groups to representative destinations in northern Illinois and Beloit, Wisconsin.

Exhibit No 42:

This exhibit is a statement showing distances via short tariff routes from the Illinois groups to representative points in northern Illinois and Beloit, Wisconsin.

Exhibit No. 43:

This exhibit is a statement showing the points of origin on each origin railroad in the Illinois and Indiana groups.

Exhibit No. 44:

This exhibit is a statement showing distances via the [fol. 2946] short tariff routes from each Indiana group to representative destinations and a composite of the Indiana groups.

Exhibit No. 45:

This exhibit is a statement showing the composite average rates via the short tariff routes from all the Illinois

groups to each representative destination and to a composite of all representative destinations.

Exhibit No. 46:

This exhibit is a statement showing the composite average distance via short tariff routes and the present and proposed rates from Southern Illinois and the Indiana groups to representative destinations.

Exhibit No. 47:

This exhibit is a statement showing the average distance via short tariff routes from the Southern Illinois and the Indiana groups and a composite of the Indiana groups to the representative destinations; also the difference in distance the Indiana groups are over or under Southern Illinois.

Exhibit No. 48:

This exhibit is a map of the States of Illinois, Wisconsin, Iowa, Minnesota, Nebraska, South Dakota and North Dakota on which are shown the destination territories and the actual rate differentials Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Boonville under Southern Illinois.

Exhibit No. 49:

This exhibit is a statement of the short tariff route distances from Southern Illinois and each of the Indiana groups to points in Minnesota, Iowa and Wisconsin used [fol. 2947] as representative by the Commission in 204 I.C.C. 255 as compared with 12 selected destinations in Illinois and Beloit, Wisconsin, and the difference in distance Indiana over or under Southern Illinois.

Exhibit No. 50:

This exhibit is a map of the northern portion of Illinois showing the involved destination territory on which is indicated by colors the prior, present and proposed differential relationship between the Brazil-Clinton and Southern Illinois groups.

Exhibit No. 51:

This exhibit is a statement showing the rates from the Southern Illinois, Springfield and Brazil-Clinton groups to representative destinations in effect on July 19, 1925, in

1930 to 1932, at present, and as proposed and the differential relationship in effect between those groups on those dates.

Exhibit No. 52:

This exhibit is a statement showing the rates prior to the I. & S. Docket No. 4368 adjustment, the proposed and approved rates under I. & S. Docket No. 4368, the present and proposed rates from the Southern Illinois and Indiana groups to representative northern Illinois destinations and Beloit, Wisconsin, and the differentials in such rates the Indiana groups versus Southern Illinois.

Exhibit No. 53:

This exhibit is a statement showing the difference in distance via short tariff routes and the differential in the present and proposed rates Indiana groups versus Southern Illinois to certain representative destinations and to a composite of all such destinations.

[fol. 2948] Exhibit No. 54:

This exhibit is a statement showing the Docket No. 23922, Docket No. 26558 and Holmes & Hallowell scales prescribed by the Interstate Commerce Commission.

Exhibit No. 55:

This exhibit is a statement showing the present and proposed rates from the Southern Illinois group and a composite of the Indiana groups to representative destinations and the percents such rates are of the various scales.

Exhibit No. 56:

This exhibit is a statement showing the present and proposed rates from the Southern Illinois and Brazil-Clinton groups to representative destinations and the percents such rates are of the various scales.

Exhibit No. 57:

This exhibit is a statement showing the average present and proposed rates from a composite of the Indiana groups and a composite of the Illinois groups and the percents such rates are of the various scales.

Exhibit No. 58:

This exhibit is a statement showing the average present and proposed rates from a composite of the Indiana groups and a composite of the Illinois groups to representative destinations and the revenue per ton mile and per car mile under such rates.

Exhibit No. 59:

This exhibit is a statement showing the present and proposed rates from Southern Illinois and a composite of the Indiana groups to representative destinations and the revenue per ton mile and per car mile under such rates.

[fol. 2949] Exhibit No. 60:

This exhibit is a statement showing the present and proposed rates from the Southern Illinois and Brazil-Clinton groups to representative destinations and the revenue per ton mile and per car mile under such rates.

Exhibit No. 61:

This exhibit is a statement showing the present and proposed rates from the Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Southern Illinois groups on the Chicago & Eastern Illinois Railroad and the New York Central Railroad and the percents such rates are of the various scales.

Exhibit No. 62:

This exhibit is a statement showing the present and proposed rates from the Brazil-Clinton, Linton-Sullivan, Princeton-Ayrshire and Southern Illinois groups on the Chicago & Eastern Illinois Railroad and the New York Central Railroad and the per ton mile and per car mile revenue under such rates.

Exhibit No. 63:

This exhibit is a statement showing the longest haul and shortest haul via the short tariff routes from the Springfield, Southern Illinois and Indiana groups to representative destinations.

Exhibit No. 64:

This exhibit is a statement showing the present and proposed rates to Rockford, Illinois, and Beloit, Wisconsin,

from all the Illinois, Indiana and western Kentucky groups, the amount of increase and the present and proposed differentials.

Exhibit No. 65:

This exhibit is a statement showing the rates from origins [fol. 2950] in Illinois, Indiana and western Kentucky to Beloit, Wisconsin, in effect prior to the original order of the Commission in Docket No. 25419, the rates published in compliance with the order in that case effective October 27, 1933, and the rates in effect to Rockford, Illinois, at that time.

Exhibit No. 66:

This exhibit is a statement showing the present and proposed rates from the Indiana groups and from the Southern Illinois and Springfield groups to Beloit, Wisconsin, and affected Illinois points and the amount of increase proposed from each group.

Exhibit No. 67:

This exhibit is a statement showing the present and proposed rates from the Southern Illinois group and the Indiana groups to Beloit, Wisconsin, and affected points and the present and proposed differentials Indiana groups under Southern Illinois.

Exhibit No. 68:

This exhibit is a statement showing the present and proposed rates from the Indiana groups to Beloit, Wisconsin, and the present and proposed differential the other groups are over the Brazil-Clinton base group.

Exhibit No. 69:

This exhibit is a statement showing the distances via the short tariff routes to Beloit, Wisconsin, from the Southern Illinois group and the Indiana groups, the difference in distance Indiana groups under Southern Illinois, the present and proposed rates and the present and proposed rate differentials Indiana groups under Southern Illinois.

Exhibit No. 70:

This exhibit is a statement showing the distances via [fol. 2951] short tariff routes to Beloit, Wisconsin, from

the Southern Illinois and Springfield groups, the difference in distance Springfield under Southern Illinois, the present and proposed rates and the present and proposed rate differentials.

Exhibit No. 71:

This exhibit is a statement showing the distances and the present and proposed rates from the Indiana groups and the Southern Illinois group on the Chicago & Eastern Illinois Railroad and the New York Central Railroad, the percents such rates are of the various scales and the earnings per ton mile and per car mile under the present and proposed rates.

Exhibit No. 72:

This exhibit is a statement showing the rates that would obtain from the Indiana groups to representative destinations and to a composite of the representative destinations based on the standard differentials between the Indiana groups and the Illinois groups.

Exhibit No. 73:

This exhibit is a statement based on mileages and rates used by the carriers in their Exhibits Nos. 3 and 4, showing the distance via the short tariff routes from a composite of the Illinois groups compared with a composite of the Indiana groups to a composite of the representative destinations used by the carriers, the average present and proposed rates and the percents such rates are of the various scales.

Exhibit No. 74:

This exhibit is a statement based on the mileages and rates used by the carriers in their Exhibits Nos. 3 and 4 [fol. 2952] showing the composite distances via the short tariff routes from the Indiana groups and the Illinois groups to the representative destinations used by the carriers, the average proposed Illinois rates and the average Indiana rates based on the standard differentials and the percents such rates are of the various scales.

Exhibit No. 76:

This exhibit consists of the following:

1. A statement showing the rates effective August 20, 1930, the present and suspended rates and the increases or decreases in such rates since August 20, 1930, from the Belleville group and the Indiana groups to Freeport and Rockford, Illinois.

2. A comparative statement of the present and proposed rates from the Belleville group to Rockford and Freeport, Illinois, and from the Indiana groups to certain points in northern Illinois.

3. A statement showing the average short tariff distances, average suspended rates, differences in rates, the Docket No. 26558 scale rates and percents of such scale from the Belleville, Southern Illinois, Princeton and Boonville groups to representative suspended destinations shown in the carriers' Exhibit No. 11 and from the Belleville, Southern Illinois, Linton-Sullivan, Princeton-A. rshire and Boonville groups to Dixon, Illinois.

Exhibit No. 77:

This exhibit is a statement showing the mileages via short tariff and shortest tariff routes and rates on coal from the Northern Illinois producing district to certain destinations [fol. 2953] in northern Illinois to which proposed increases in rates are under suspension.

Exhibit No. 78:

This exhibit is a statement showing mileages via short tariff and shortest tariff routes and rates on coal from the Northern Illinois producing district to certain destinations in Illinois, Iowa and Wisconsin.

Exhibit No. 79:

This exhibit is a statement showing mileages via short tariff and shortest tariff routes and rates on coal from the Fulton-Peoria producing district to certain destinations in northern Illinois to which proposed increases in rates are under suspension.

Exhibit No. 80:

This exhibit is a statement showing a comparison of the mileages used by the carriers and intervenor, Middle States

Fuels, Inc., from the Fulton-Peoria district to affected points.

Exhibit No. 81:

This exhibit is a statement showing mileages via short tariff and shortest tariff routes and rates on coal from the Fulton-Peoria producing district to various destinations in Illinois, Iowa and Wisconsin.

Exhibit No. 82:

This exhibit is a statement showing the present and proposed rates and the amount of increase or decrease (without Ex Parte 148 increases) from the Fulton-Peoria district to all destinations in northern Illinois to which changes are proposed.

Exhibit No. 83:

This exhibit consists of the following:

[fol. 2954] 1. Copy of the statement of the Interstate Commerce Commission in I. & S. Docket No. 2346, dated April 23, 1925.

2. A map on which is shown the present differential adjustment as between the Fulton-Peoria and Southern Illinois groups to Illinois, Iowa and Minnesota destinations.

3. A statement of the history of the rates on coal from the Northern Illinois, Fulton-Peoria, Southern Illinois and Brazil-Clinton groups to Beloit, Wisconsin, and Rockford, Illinois, from July 19, 1925, to date.

Exhibit No. 84:

This exhibit is a statement showing a comparison of the average revenue received per car and per car mile on bituminous coal with various commodities between the Fulton-Peoria group and Beloit, Wisconsin.

Exhibit No. 85:

This exhibit is a statement showing various analyses of the rates and mileages from the Fulton-Peoria group and Atkinson and Victoria, Illinois, to destinations in Illinois in the suspended or affected territory and to Beloit, Wisconsin, compared with the rates and mileages to Wisconsin,

Illinois, Iowa, etc., and with rates from other Illinois origin groups.

Exhibit No. 86:

This exhibit is a statement showing the average mileages and rates to suspended destinations in Illinois as compared with the average mileages and rates to compared points in Wisconsin from the Fulton-Peoria and other producing districts in Illinois based on the mileages used by the car-
[fol. 2955] riers in Exhibit No. 3.

Exhibit No. 87:

This exhibit is a statement showing certain errors in the carriers' Exhibit No. 11 respecting rates and mileages from the Fulton County group to suspended destinations and what the average mileage would be if the carriers had used the going rate for figuring mileage from all the Fulton-Peoria district, including Alpha, Atkinson, Victoria and Peoria.

Exhibit No. 88:

This exhibit is a statement showing the average proposed rates and the average short tariff route distance from origin groups in Illinois, Indiana and western Kentucky to representative suspended destinations compared with representative comparative rates and showing the amount in percentage the suspended rates are lower than the compared rates.

Exhibit No. 89:

This exhibit is a statement showing the rates and differentials or differences in rates western Kentucky compared to Southern Illinois, Central Illinois compared to Southern Illinois, Indiana compared to Southern Illinois, and Rich Hill, Missouri, compared to Pittsburg, Kansas, and Spadra, Arkansas, with accompanying maps.

Exhibit No. 90:

This exhibit is a statement showing the comparison of the present rates from the Fulton-Peoria district to Beloit, Wisconsin, with the level of rates in effect from the Head-of-the-Lakes to Minnesota, Iowa, South Dakota in Holmes & Hallowell territory.

[fol. 2956] Exhibit No. 91:

This exhibit is a statement showing the distances via short tariff routes and the rates from origins in the Southern Illinois group to Portage and Wausau, Wisconsin.

Exhibit No. 97:

This exhibit is a statement showing the short tariff route distances from the Southern Illinois group and from the Indiana groups to points in the States of Minnesota, Iowa and Wisconsin used by Witness Scott in Exhibit No. 46 as compared with 12 representative suspended points in northern Illinois.

Exhibit No. 98:

This exhibit is a statement showing a comparison of the rates on coal from the Southern Illinois group to Rockford, Illinois, with the rates from the Princeton-Ayrshire, Boonville and western Kentucky groups to destinations in Illinois.

Exhibit No. 99:

This exhibit is a statement showing the number of tons of coal shipped from the Illinois mines and from the Indiana mines during the years 1936 and 1941 to Beloit, Wisconsin, and to 7 representative points in northern Illinois.

Exhibit No. 100:

This exhibit is a statement showing the number of tons of coal shipped from all mines in Illinois and all mines in Indiana and from the mines in the various Illinois and Indiana producing groups to all destinations in Indiana, except those in the Chicago Switching District, during the years 1923 to 1941, both inclusive.

Exhibit No. 101:

This exhibit is a statement showing the number of tons [fol. 2957] of coal shipped from the individual producing groups in Illinois, Indiana and western Kentucky to various destination territories during the years 1923 to 1941, inclusive, the percent of the tonnage shipped each year was of the 1923 tonnage and the per cent that the tonnage shipped from the individual Indiana and Illinois groups was of the total shipped from such states.

Exhibit No. 102:

This exhibit is a statement showing the present and suspended rates on coal from the Springfield, Southern Illinois and Indiana groups to 12 representative suspended points in northern Illinois, the rates proposed by Witness Scott in Exhibit No. 72 and the amount of increase or reduction that would result from the establishment of the suspended rates and such proposed rates, together with the average shortest tariff route mileages from such groups.

Exhibit No. 103:

This exhibit is a statement showing a comparison of the progression of the Holmes & Hallowell scale with the progression of other basic scales, most of which have been prescribed by the Interstate Commerce Commission in recent decisions.

Exhibit No. 106

This exhibit is a statement showing the number of tons of coal produced by all types of mines and the total number of tons of coal produced by the hand-loaded, machine-loaded and strip mines in Illinois and Indiana for certain periods during the years 1936 to 1942, the weighted average producing cost and weighted average producing administrative and selling cost per ton for all mines in such districts.

[fol. 2958] Exhibit No. 107:

This exhibit is a statement showing the rates on coal from the Southern Illinois, Princeton-Ayrshire, Brazil-Clinton and Linton-Sullivan groups to representative points in northern Illinois to which increased rates are under suspension effective on August 25, 1920 and July 19, 1925, together with the amount of increase over the August 25, 1920 rates:

Exhibit No. 108:

This exhibit is a map of the State of Illinois on which are shown by means of colored lines the present short tariff route from the origin point of Junction, Illinois, in the Southern Illinois group, on the B. & O. Railroad, to Ladd, Illinois, and a suggested reasonable or practicable short tariff route from said origin to said destinations.

Exhibit No. 109:

This exhibit is a statement showing the rates on coal and the distances via shortest tariff routes from the Southern Illinois group to destinations in the State of Wisconsin.

Exhibit No. 110:

This exhibit is a statement showing the rates on coal and the distances via shortest tariff routes from the Fulton-Peoria group to destinations in the State of Wisconsin.

Exhibit No. 111:

This exhibit is a statement showing a recapitulation of the rates and distances shown in Exhibits Nos. 109 and 110.

[fol. 2959] Exhibit No. 112:

This exhibit is a statement showing the distances via short circuit routes to Beloit, Wisconsin, from tariff origin points in the Southern Illinois group.

Exhibit No. 113:

This exhibit is a statement showing the distances via short circuit routes to Beloit, Wisconsin, from tariff origin points located in the Fulton-Peoria group.

Exhibit No. 114:

This exhibit is a statement showing the number of origin points in each of the Illinois and Indiana groups, the total rates and the average rate from each group to 13 destination points as shown in Exhibits Nos. 41 and 42.

Exhibit No. 115:

This exhibit is a statement showing the names of each of the coal producing companies and the mines which were in operation in Fulton, Henry, Will and Knox Counties in Illinois during the years 1925 and 1926 and the number of tons of coal produced by each of such mines during each of such years.

Exhibit No. 116:

This exhibit is a statement showing the names of each of the major coal producing companies and the mines operated by them in Fulton, Knox, Henry and Will Counties in Illinois at the present time, the year in which each of such

mines began operation and the number of tons of coal each of such mines produced in each year.

Exhibit No. 117:

This exhibit is a statement showing the population in 1940 of the respective suspended and comparative points [fol. 2960] selected by the carriers and the Coal Trade Association of Indiana.

Exhibit No. 118:

This exhibit is a statement of certain corrections to be made in Exhibits Nos. 23, 25, 34 and 97.

And it is further stipulated and agreed that, notwithstanding anything contained in the designations of the parts of the record to be printed heretofore filed by the parties, the printed record shall contain only:

1. The material called for in Items 1 through 37, both inclusive, Item 38 (a), Item 38 (b) (1) and Item 39 of appellants' designation.

2. This stipulation.

3. In addition to the pages of transcript of testimony called for in Item 38 (b) (1) of appellants' designation, the following:

Line 10 of page 648 to and including line 16 of page 649.
Line 12 of page 723 to and including line 8 of page 726.

4. Exhibits Nos. 1 and 2 introduced before the Commission (being maps of origin and destination territory).

And it is further stipulated and agreed that the parties, or any of them, in brief or argument may refer to, and the Court may consider, any part of the record on appeal, whether printed or not, to the same extent as if set forth in full in the printed record.

Dated November 22, 1946.

Earl B. Wilkinson, Franklin Fay, Attorneys for Ayrshire Collieries Corporation, et al., Appellants; Carson L. Taylor, William L. Hunter, Attorneys for Chicago, Milwaukee, St. Paul and Pacific Rail- [fol. 2961] road Company, Appellant; George T. Washington, Acting Sol. Gen. For United States of America; Daniel W. Knowlton, Attorney for

Interstate Commerce Commission; Erle J. Zoll, Jr., Attorney for The Alton Railroad Company (Henry A. Gardner, Trustee), and other intervening railroads; Charles W. Stadell, Attorney for Central Illinois District Coal Traffic Bureau and Illinois Coal Traffic Bureau.

[fol. 2962] [File endorsement omitted].

Endorsed on Cover: File No. 51331, S. Indiana D.C. U.S. Term No. 467. Ayrshire Collieries Corporation, et al., and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Appellants vs. The United States of America, Interstate Commerce Commission, et al. Filed September 6, 1946. Term No. 467 O.T. 1946.